United Nations A/59/275

General Assembly

Distr.: General
17 August 2004

Original: English

Fifty-ninth session
Item 105 (a) of the provisional agenda*
Elimination of racism and racial discrimination

Status of the International Convention on the Elimination of All Forms of Racial Discrimination

Report of the Secretary-General**

1. By its resolution 2106 A (XX) of 21 December 1965, the General Assembly adopted and opened for signature and ratification the International Convention on the Elimination of All Forms of Racial Discrimination, and invited the States referred to in article 17 of the Convention to sign and ratify it without delay; and requested the Secretary-General to submit to it reports concerning the state of ratifications of the Convention, which would be considered by the Assembly at future sessions.

2. In section III of its resolution 57/194 of 18 December 2002 the General Assembly took note of the report of the Secretary-General on the status of the Convention (A/57/334); reaffirmed once again its conviction that ratification of or accession to the Convention on a universal basis and the implementation of its provisions were necessary for the realization of the objectives of the Third Decade to Combat Racism and Racial Discrimination and for the implementation of the commitments undertaken under the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance; urged all States that had not yet become parties to the Convention to ratify it or accede to it as a matter of urgency, with a view to achieving universal ratification by 2005; urged States to limit the extent of any reservation they lodged to the Convention; requested the States parties to the Convention that had not yet done so to consider making the declaration provided for in article 14 of the Convention; and decided to consider, at its fifty-ninth session, the report of the Secretary-General on the status of the Convention.

3. The International Convention on the Elimination of All Forms of Racial Discrimination was opened for signature in New York on 7 March 1966. It entered into force on 4 January 1969, on the thirtieth day after the date of deposit with the

* A/59/150.

** The present document was submitted late so as to include the most up-to-date information possible.

04-46313 (E) 070904

Secretary-General of the twenty-seventh instrument of ratification, as provided for in article 19 of the Convention.

4. As at 1 July 2004, the Convention had been ratified or acceded to by 169 States parties. The list of States that had signed, ratified, acceded or succeeded to the Convention, and the dates of their ratifications, accessions or successions are contained in the annex to the present report.

5. As at the same date, 45 of the States parties to the Convention — Algeria, Australia, Austria, Azerbaijan, Belgium, Brazil, Bulgaria, Chile, Costa Rica, Cyprus, the Czech Republic, Denmark, Ecuador, Finland, France, Germany, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Mexico, Monaco, the Netherlands, Norway, Peru, Poland, Portugal, the Republic of Korea, Romania, the Russian Federation, Senegal, Serbia and Montenegro, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Ukraine, Uruguay and Venezuela — had made the declaration provided for under article 14 of the Convention, recognizing the competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals within their jurisdiction claiming to be victims of violation by those States parties of any of the rights set forth in the Convention. The provisions of article 14 entered into force on 3 December 1982, in accordance with paragraph 9 of that article.

6. The Committee on the Elimination of Racial Discrimination normally holds two regular sessions annually of three weeks' duration each. In accordance with article 9, paragraph 2, of the Convention, the Committee is to submit, through the Secretary-General, an annual report to the General Assembly. The report to be submitted to the Assembly at its present session covers the activities of the Committee at its sixty-fourth and sixty-fifth sessions.

Notes

[1] To be issued as *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 18* (A/59/18).

Annex

States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, as at 1 July 2004

State party	*Date of receipt of the instrument of ratification or accession*	*Entry into force*
Afghanistan	6 July 1983[a]	5 August 1983
Albania	11 May 1994[a]	10 June 1994
Algeria	14 February 1972	15 March 1972
Antigua and Barbuda	25 October 1988[a]	24 November 1988
Argentina	2 October 1968	4 January 1969
Armenia	23 June 1993[a]	23 July 1993
Australia	30 September 1975	30 October 1975
Austria	9 May 1972	8 June 1972
Azerbaijan	16 August 1996[a]	15 September 1996
Bahamas	5 August 1975[b]	4 September 1975
Bahrain	27 March 1990[a]	26 April 1990
Bangladesh	11 June 1979[a]	11 July 1979
Barbados	8 November 1972[a]	8 December 1972
Belarus	8 April 1969	8 May 1969
Belgium	7 August 1975	6 September 1975
Belize	14 November 2001	13 December 2001
Benin	30 November 2001	29 December 2001
Bolivia	22 September 1970	22 October 1970
Bosnia and Herzegovina	16 July 1993[b]	16 July 1993
Botswana	20 February 1974[a]	22 March 1974
Brazil	27 March 1968	4 January 1969
Bulgaria	8 August 1966	4 January 1969
Burkina Faso	18 July 1974[a]	17 August 1974
Burundi	27 October 1977	26 November 1977
Cambodia	28 November 1983	28 December 1983

State party	*Date of receipt of the instrument of ratification or accession*	*Entry into force*
Cameroon	24 June 1971	24 July 1971
Canada	14 October 1970	13 November 1970
Cape Verde	3 October 1979[a]	2 November 1979
Central African Republic	16 March 1971	15 April 1971
Chad	17 August 1977[a]	16 September 1977
Chile	20 October 1971	19 November 1971
China	29 December 1981[a]	28 January 1982
Colombia	2 September 1981	2 October 1981
Congo	11 July 1988[a]	10 August 1988
Costa Rica	16 January 1967	4 January 1969
Côte d'Ivoire	4 January 1973[a]	3 February 1973
Croatia	12 October 1992[b]	12 October 1992
Cuba	15 February 1972	16 March 1972
Cyprus	21 April 1967	4 January 1969
Czech Republic	22 February 1993[b]	22 February 1993
Democratic Republic of the Congo	21 April 1976[a]	21 May 1976
Denmark	9 December 1971	8 January 1972
Dominican Republic	25 May 1983[a]	24 June 1983
Ecuador	22 September 1966[a]	4 January 1969
Egypt	1 May 1967	4 January 1969
El Salvador	30 November 1979[a]	30 December 1979
Equatorial Guinea	8 October 2002[a]	7 November 2002
Eritrea	31 July 2001[a]	29 August 2001
Estonia	21 October 1991[a]	20 November 1991
Ethiopia	23 June 1976[a]	23 July 1976
Fiji	11 January 1973[b]	10 February 1973
Finland	14 July 1970	13 August 1970
France	28 July 1971[a]	27 August 1971

State party	*Date of receipt of the instrument of ratification or accession*	*Entry into force*
Gabon	29 February 1980	30 March 1980
Gambia	29 December 1978[a]	28 January 1979
Georgia	2 June 1999[a]	2 July 1999
Germany	16 May 1969	15 June 1969
Ghana	8 September 1966	4 January 1969
Greece	18 June 1970	18 July 1970
Guatemala	18 January 1983	17 February 1983
Guinea	14 March 1977	13 April 1977
Guyana	15 February 1977	17 March 1977
Haiti	19 December 1972	18 January 1973
Holy See	1 May 1969	31 May 1969
Honduras	10 October 2002[a]	9 October 2002
Hungary	1 May 1967	4 January 1969
Iceland	13 March 1967	4 January 1969
India	3 December 1968	4 January 1969
Indonesia	25 June 1999[a]	25 July 1999
Iran (Islamic Republic of)	29 August 1968	4 January 1969
Iraq	14 January 1970	13 February 1970
Ireland	29 December 2000	27 January 2001
Israel	3 January 1979	2 February 1979
Italy	5 January 1976	4 February 1976
Jamaica	4 June 1971	4 July 1971
Japan	15 December 1995	14 January 1996
Jordan	30 May 1974[a]	29 June 1974
Kazakhstan	26 August 1998[a]	25 September 1998
Kenya	13 September 2001[a]	12 October 2001
Kuwait	15 October 1968[a]	4 January 1969
Kyrgyzstan	5 September 1997	5 October 1997

State party	*Date of receipt of the instrument of ratification or accession*	*Entry into force*
Lao People's Democratic Republic	22 February 1974[a]	24 March 1974
Latvia	14 April 1992[a]	14 May 1992
Lebanon	12 November 1971[a]	12 December 1971
Lesotho	4 November 1971[a]	4 December 1971
Liberia	5 November 1976[a]	5 December 1976
Libyan Arab Jamahiriya	3 July 1968[a]	4 January 1969
Liechtenstein	1 March 2000[a]	31 March 2000
Lithuania	10 December 1998	9 January 1999
Luxembourg	1 May 1978	31 May 1978
Madagascar	7 February 1969	9 March 1969
Malawi	11 June 1996[a]	11 July 1996
Maldives	24 April 1984[a]	24 May 1984
Mali	16 July 1974[a]	15 August 1974
Malta	27 May 1971	26 June 1971
Mauritania	13 December 1988	12 January 1989
Mauritius	30 May 1972[a]	29 June 1972
Mexico	20 February 1975	22 March 1975
Monaco	27 September 1995	27 October 1995
Mongolia	6 August 1969	5 September 1969
Morocco	18 December 1970	17 January 1971
Mozambique	18 April 1983[a]	18 May 1983
Namibia	11 November 1982[a]	11 December 1982
Nepal	30 January 1971[a]	1 March 1971
Netherlands	10 December 1971	9 January 1972
New Zealand	22 November 1972	22 December 1972
Nicaragua	15 February 1978[a]	17 March 1978
Niger	27 April 1967	4 January 1969
Nigeria	16 October 1967[a]	4 January 1969

State party	*Date of receipt of the instrument of ratification or accession*	*Entry into force*
Norway	6 August 1970	5 September 1970
Oman	2 January 2003[a]	1 February 2003
Pakistan	21 September 1966	4 January 1969
Panama	16 August 1967	4 January 1969
Papua New Guinea	27 January 1982[a]	26 February 1982
Paraguay	18 August 2003	17 September 2003
Peru	29 September 1971	29 October 1971
Philippines	15 September 1967	4 January 1969
Poland	5 December 1968	4 January 1969
Portugal	24 August 1982[a]	23 September 1982
Qatar	22 July 1976[a]	21 August 1976
Republic of Korea	5 December 1978[a]	4 January 1979
Republic of Moldova	26 January 1993[a]	25 February 1993
Romania	15 September 1970[a]	15 October 1970
Russian Federation	4 February 1969	6 March 1969
Rwanda	16 April 1975[a]	16 May 1975
Saint Lucia	14 February 1990[b]	16 March 1990
Saint Vincent and the Grenadines	9 November 1981[a]	9 December 1981
San Marino	12 March 2002	10 April 2002
Saudi Arabia	22 September 1997	22 October 1997
Senegal	19 April 1972	19 May 1972
Serbia and Montenegro	12 March 2001[b]	12 March 2001
Seychelles	7 March 1978[a]	6 April 1978
Sierra Leone	2 August 1967	4 January 1969
Slovakia	28 May 1993[b]	28 May 1993
Slovenia	6 July 1992[b]	6 July 1992
Solomon Islands	17 March 1982[b]	16 April 1982
Somalia	26 August 1975	25 September 1975

State party	*Date of receipt of the instrument of ratification or accession*	*Entry into force*
South Africa	10 December 1998	9 January 1999
Spain	13 September 1968[a]	4 January 1969
Sri Lanka	18 February 1982[a]	20 March 1982
Sudan	21 March 1977[a]	20 April 1977
Suriname	15 March 1984[b]	14 April 1984
Swaziland	7 April 1969[a]	7 May 1969
Sweden	6 December 1971	5 January 1972
Switzerland	29 November 1994[a]	29 December 1994
Syrian Arab Republic	21 April 1969[a]	21 May 1969
Tajikistan	11 January 1995[a]	10 February 1995
Thailand	28 January 2003[a]	27 February 2003
The former Yugoslav Republic of Macedonia	18 January 1994[b]	18 January 1994
Timor-Leste	16 April 2003[a]	16 May 2003
Togo	1 September 1972[a]	1 October 1972
Tonga	16 February 1972[a]	17 March 1972
Trinidad and Tobago	4 October 1973	3 November 1973
Tunisia	13 January 1967	4 January 1969
Turkey	16 September 2002	16 October 2002
Turkmenistan	29 September 1994[a]	29 October 1994
Uganda	21 November 1980[a]	21 December 1980
Ukraine	7 March 1969	6 April 1969
United Arab Emirates	20 June 1974[a]	20 July 1974
United Kingdom of Great Britain and Northern Ireland	7 March 1969	6 April 1969
United Republic of Tanzania	27 October 1972[a]	26 November 1972
United States of America	21 October 1994	20 November 1994
Uruguay	30 August 1968	4 January 1969

State party	*Date of receipt of the instrument of ratification or accession*	*Entry into force*
Uzbekistan	28 September 1995[a]	28 October 1995
Venezuela	10 October 1967	4 January 1969
Viet Nam	9 June 1982[a]	9 July 1982
Yemen	18 October 1972[a]	17 November 1972
Zambia	4 February 1972	5 March 1972
Zimbabwe	13 May 1991[a]	12 June 1991
Total: 169		

Note: The following States have signed but not ratified the Convention: Andorra, Bhutan, Comoros, Grenada, Guinea-Bissau, Nauru and Sao Tome and Principe.

[a] Accession.

[b] Date of receipt of notification of succession.

United Nations A/59/276

General Assembly

Distr.: General
17 August 2004

Original: English

Fifty-ninth session
Item 105 (a) of the provisional agenda*
Elimination of racism and racial discrimination

Financial situation of the Committee on the Elimination of Racial Discrimination

Report of the Secretary-General**

1. Pursuant to article 8, paragraph 6, of the International Convention on the Elimination of All Forms of Racial Discrimination (General Assembly resolution 2106 A (XX), annex), States parties shall be responsible for the expenses of the members of the Committee on the Elimination of Racial Discrimination while they are in performance of Committee duties.

2. In its resolution 47/111 of 16 December 1992, the General Assembly welcomed the decision taken at the Fourteenth Meeting of States Parties to the Convention in January 1992 to amend article 8 of the Convention, and requested the Secretary-General to take the appropriate measures to provide for the financing of the Committee from the regular budget of the United Nations, beginning with the budget for the biennium 1994-1995, and to take the necessary measures to ensure that the Committee met as scheduled until the amendment entered into force.

3. Acting in his capacity as depositary, the Secretary-General communicated the amendment to all States parties on 1 March 1993 (see annex I). It will be recalled that, at their Fourteenth Meeting, the States parties had decided that the amendment would enter into force when accepted by a two-thirds majority of States parties that had so notified the Secretary-General as depositary. As at 1 July 2004, notifications of acceptance had been received from 38 States parties to the Convention.

4. In section II of its resolution 57/194 of 18 December 2002, the General Assembly strongly urged States parties to the Convention to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment; requested the Secretary-General to continue to ensure adequate financial arrangements and to provide the necessary support, including an adequate level of Secretariat assistance,

* A/59/150.
** The present document is submitted late so as to include the most up-to-date information possible.

04-46408 (E) 030904

to ensure the functioning of the Committee and to enable it to cope with its increasing amount of work; and also requested him to invite those States parties that were in arrears to pay the amounts in arrears, and to report thereon to the Assembly at its fifty-ninth session.

5. Financing for the annual sessions of the Committee in 2003 and 2004 was provided from the regular budget, in accordance with General Assembly resolution 47/111. Consequently, no State party assessments were made in those two years. However, a number of States parties are still in arrears as a result of the non-payment of previous assessments. As at 1 July 2004, the total arrears outstanding amounted to $151,052.52 (see annex II).

Annex I

International Convention on the Elimination of All Forms of Racial Discrimination: approval by the General Assembly of the proposed amendment to article 8

1. The Secretary-General of the United Nations, acting in his capacity as depositary, and with reference to depositary notification C.N.285.1991.TREATIES-4 of 20 December 1991, communicates the following:

2. It will be recalled that the States parties to the above-mentioned Convention, at the twenty-second meeting of the Fourteenth Meeting of the States Parties, held on 15 January 1992, decided as follows:

> "1. To replace paragraph 6 of article 8 of the Convention with the paragraph 'The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the Convention';
>
> "2. To add a new paragraph, as article 8, paragraph 7, as follows:
>
> 'The members of the Committee established under the present Convention shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide';
>
> "...
>
> "4. That the amendment shall enter into force when it has been approved by the General Assembly and accepted by a two-thirds majority of States parties which shall have so notified the Secretary-General as depositary."

3. The General Assembly endorsed the amendment at its forty-seventh session (resolution 47/111 of 16 December 1992). In accordance with the above-quoted paragraph 4, it will enter into force when it is accepted by the required number of States parties which shall have so notified the Secretary-General.

Annex II

Status of contributions to the Committee on the Elimination of Racial Discrimination as at 1 July 2004

(United States dollars)

State party	*Contributions payable as at 31 January 1993*	*1993 assessments*	*Total collections from 1993 to 2004 for 1993 and prior years*[a]	*Contributions payable as at 1 July 2004*
Afghanistan	1 348.00	877.00	--	2 225.00
Algeria	--	1 177.00	1 177.00	--
Antigua and Barbuda	--	877.00	877.00	--
Argentina	690.00	1 941.00	2 631.00	--
Australia	--	3 811.00	3 811.00	--
Austria	--	2 341.00	2 341.00	--
Bahamas	--	896.00	896.00	--
Bahrain	--	920.00	920.00	--
Bangladesh	876.00	877.00	1 753.00	--
Barbados	362.00	877.00	1 239.00	--
Belarus	1 426.00	1 869.00	--	3 295.00
Belgium	--	2 900.00	2 900.00	--
Bolivia	362.00	877.00	--	1 239.00
Botswana	--	877.00	877.00	--
Brazil	1 792.00	4 056.00	5 848.00	--
Bulgaria	431.00	1 104.00	1 535.00	--
Burkina Faso	6 629.83	877.00	--	7 506.83
Burundi	8 899.00	877.00	--	9 776.00
Cambodia	2 244.00	877.00	--	3 121.00
Cameroon	942.04	877.00	--	1 819.04
Canada	7 004.00	--	7 004.00	--
Cape Verde	7 162.00	877.00	--	8 039.00
Central African Republic	7 783.89	877.00	--	8 660.89
Chad	211.40	877.00	--	1 088.40
Chile	1 006.00	1 015.00	2 021.00	--
China	--	2 367.00	2 367.00	--
Colombia	(0.09)	1 109.00	1 109.00	(0.09)
Congo	2 597.00	877.00	--	3 474.00
Costa Rica	3 909.86	872.00	4 867.88	(86.02)
Côte d'Ivoire	1 937.00	896.00	2 813.34	19.66
Cuba	--	1 035.00	1 035.00	--
Cyprus	--	896.00	896.00	--
Czech Republic[b]	--	(502.00)	--	(502.00)
Democratic Republic of the Congo[c]	(45.00)	877.00	--	832.00

State party	Contributions payable as at 31 January 1993	1993 assessments	Total collections from 1993 to 2004 for 1993 and prior years[a]	Contributions payable as at 1 July 2004
Denmark	--	2 122.00	2 122.00	--
Dominican Republic	3 523.00	892.00	--	4 415.00
Ecuador	913.00	916.00	1 829.00	--
Egypt	--	994.00	994.00	--
El Salvador	7 162.00	877.00	--	8 039.00
Estonia	--	1 205.00	--	1 205.00
Ethiopia	(514.00)	877.00	363.00	--
Fiji	362.00	877.00	1 239.00	--
Finland	--	2 007.00	2 007.00	--
France	--	12 590.00	12 590.00	--
Gabon	892.00	892.00	--	1 784.00
Gambia	7 831.00	877.00	--	8 708.00
Germany	--	18 294.00	18 294.00	--
Ghana	--	877.00	877.00	--
Greece	--	1 524.00	1 524.00	--
Guatemala	1 389.20	896.00	2 285.20	--
Guinea	903.80	877.00	--	1 780.80
Guyana	--	877.00	877.00	--
Haiti	1 750.00	877.00	--	2 627.00
Holy See	--	877.00	877.00	--
Hungary	--	1 199.00	1 199.00	--
Iceland	--	916.00	916.00	--
India	--	1 562.00	1 562.00	--
Iran, Islamic Republic of	--	2 411.00	2 411.00	--
Iraq	(248.92)	1 117.00	868.08	--
Israel	1 949.00	1 320.00	3 269.00	--
Italy	(1.00)	9 456.00	9 456.00	(1.00)
Jamaica	362.00	877.00	1 239.00	--
Jordan	--	877.00	877.00	--
Kuwait	501.00	1 332.00	1 833.00	--
Lao People's Democratic Republic	--	877.00	877.00	--
Latvia	--	1 322.00	1 322.00	--
Lebanon	4 822.00	877.00	5 699.00	--
Lesotho	1 348.00	877.00	2 225.00	--
Liberia	7 139.00	877.00	--	8 016.00
Libyan Arab Jamahiriya	2 053.00	1 313.00	3 366.00	--
Luxembourg	--	975.00	975.00	--
Madagascar	901.87	877.00	1 889.82	(110.95)
Maldives	--	877.00	877.00	--

State party	*Contributions payable as at 31 January 1993*	*1993 assessments*	*Total collections from 1993 to 2004 for 1993 and prior years*[a]	*Contributions payable as at 1 July 2004*
Mali	9 850.00	877.00	--	10 727.00
Malta	--	877.00	877.00	--
Mauritania	2 285.00	877.00	--	3 162.00
Mauritius	--	877.00	877.00	--
Mexico	--	2 567.00	2 567.00	--
Mongolia	876.00	877.00	1 753.00	--
Morocco	--	912.00	912.00	--
Mozambique	5 097.00	877.00	--	5 974.00
Nepal	876.00	877.00	1 753.00	--
Netherlands	--	3 750.00	3 750.00	--
New Zealand	--	1 331.00	1 331.00	--
Nicaragua	2 244.00	877.00	4 000.00	(879.00)
Niger	2 750.00	877.00	--	3 627.00
Nigeria	1 899.00	1 251.00	3 150.00	--
Norway	(15.00)	1 941.00	1 926.00	--
Pakistan	0.01	975.00	975.01	--
Panama	1 122.00	896.00	2 018.00	--
Papua New Guinea	362.00	877.00	1 214.00	25.00
Peru	2 469.00	975.00	3 444.00	--
Philippines	(211.11)	986.00	774.89	--
Poland	610.00	1 744.00	2 354.00	--
Portugal	--	1 260.00	1 260.00	--
Qatar	393.00	955.00	1 348.00	--
Republic of Korea	--	2 425.00	2 425.00	--
Romania	1 819.00	1 184.00	3 003.00	--
Russian Federation	18 149.00	12 750.00	30 899.00	--
Rwanda	876.00	877.00	--	1 753.00
Saint Lucia	--	877.00	877.00	--
Saint Vincent and the Grenadines	6 637.00	877.00	--	7 514.00
Senegal	(816.19)	877.00	--	60.81
Seychelles	876.00	877.00	666.14	1 086.86
Sierra Leone	8 659.00	877.00	--	9 536.00
Slovenia	--	1 205.00	1 205.00	--
Solomon Islands	2 244.00	877.00	3 121.00	--
Somalia	7 028.00	877.00	--	7 905.00
Spain	--	4 777.00	4 777.00	--
Sri Lanka	--	877.00	877.00	--
Sudan	3 510.00	877.00	--	4 387.00
Suriname	3 084.00	877.00	3 961.00	--

State party	*Contributions payable as at 31 January 1993*	*1993 assessments*	*Total collections from 1993 to 2004 for 1993 and prior years*[a]	*Contributions payable as at 1 July 2004*
Swaziland	362.00	877.00	1 239.00	--
Sweden	--	3 003.00	3 003.00	--
Syrian Arab Republic	385.00	936.00	1 321.00	--
Togo	1 367.04	877.00	--	2 244.04
Tonga	798.00	877.00	--	1 675.00
Trinidad and Tobago	820.17	955.00	1 775.17	--
Tunisia	--	916.00	916.00	--
Uganda	362.00	877.00	--	1 239.00
Ukraine	3 026.00	4 820.00	7 846.00	--
United Arab Emirates	--	1 280.00	1 280.00	--
United Kingdom of Great Britain and Northern Ireland	--	10 836.00	10 836.00	--
United Republic of Tanzania	1 898.00	877.00	--	2 775.00
Uruguay	385.00	936.00	1 321.00	--
Venezuela	--	1 788.00	2 933.47	(1 145.47)
Viet Nam	2 244.00	877.00	3 121.00	--
Yemen	924.00	877.00	--	1 801.00
Zambia	(2 146.88)	877.00	201.40	(1 471.28)
Zimbabwe	993.00	1 093.00	--	2 086.00
Total[d]	**194 695.92**	**215 902.00**	**259 545.40**[e]	**151 052.52**

[a] In accordance with records of the Contributions Service as at 1 July 2004.

[b] An amount of $502.00, which represents the surplus of the 1991 contribution made by the former Czechoslovakia, has been placed in suspense pending action, if any, by the Czech Republic and Slovakia.

[c] The former Zaire was renamed Democratic Republic of the Congo effective 17 May 1997.

[d] Contributions of $1,435 were payable by the former Yugoslavia as at 31 January 1993. The former Yugoslavia was assessed in 1993 for a contribution of $1,122. No monies have been collected from the former Yugoslavia in or after 1993 in respect of its 1993 and prior assessments. The unpaid contributions of the former Yugoslavia therefore total $2,557.

[e] Includes credits held in suspense account, totalling $3,226.86, in favour of six States parties.

United Nations A/59/277

General Assembly

Distr.: General
17 August 2004

Original: English

Fifty-ninth session
Item 104 of the provisional agenda*
Programme of activities for the International Decade of the World's Indigenous People, 1995-2004

Implementation of the programme of activities for the International Decade of the World's Indigenous People

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the United Nations High Commissioner for Human Rights on the implementation of the programme of activities for the International Decade of the World's Indigenous People, submitted in accordance with Assembly resolution 58/158 of 22 December 2003.

* A/59/150.

** The present note is being submitted on 17 August so as to include information on the outcome of the twenty-second session of the Working Group on Indigenous Populations.

04-46389 (E) 200904

Report of the United Nations High Commissioner for Human Rights on the implementation of the programme of activities for the International Decade of the World's Indigenous People, 1995-2004

Summary

Of particular note during the reporting period, from August 2003 to July 2004, are the third session of the Permanent Forum on Indigenous Issues, which included a high-level panel on indigenous women, and the twenty-second session of the Working Group on Indigenous Populations, at which the principal theme discussed was "Indigenous peoples and conflict resolution". The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people carried out a large number of activities, including communications with Governments, country missions and the submission of a thematic report on indigenous people and the administration of justice to the Commission on Human Rights at its sixtieth session. The Office of the United Nations High Commissioner for Human Rights continued to promote inter-agency cooperation within the framework of the International Decade of the World's Indigenous People, through participation in inter-agency consultations, cooperation in regard to human rights training, and joint activities. The 2004 Indigenous Fellowship Programme, currently in its eighth year, began in May and will provide training to 14 young indigenous participants.

I. Introduction

1. In its resolution 58/158 of 22 December 2003, the General Assembly requested the United Nations High Commissioner for Human Rights to submit, through the Secretary-General, a report on the implementation of the programme of activities for the International Decade of the World's Indigenous People to the Assembly at its fifty-ninth session. The present report contains a summary of the activities relating to indigenous people undertaken by the Office of the High Commissioner during the period between the submission of the report of the High Commissioner to the Assembly at its fifty-eighth session (A/58/289) and August 2004.

II. Implementation of the programme of activities for the International Decade of the World's Indigenous People

A. Working group of the Commission on Human Rights charged with elaborating a draft declaration on the rights of indigenous people

2. The ninth session of the open-ended intercessional working group of the Commission on Human Rights charged with elaborating a draft declaration on the rights of indigenous people was held in Geneva from 15 to 26 September 2003. The working group held an informal discussion on the clusters of articles 3, 31 and 36, 25 to 30, and 7, 8 and 11. The report of the working group is contained in E/CN.4/2004/81 and Add.1. Its tenth session will be held in Geneva, from 13 to 24 September 2004, and will resume on 29 November to 3 December 2004.

B. Commission on Human Rights

3. The Commission on Human Rights held its sixtieth session from 15 March to 23 April 2004. The Commission considered the report of the working group, the report of the High Commissioner on the activities undertaken within the framework of the International Decade (E/CN.4/2004/79) and the report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (E/CN.4/2004/80 and Add.1-4 and Add.4/Corr.1). On 20 April 2004, the Commission on Human Rights adopted resolution 2004/57, on the Working Group on Indigenous Populations of the Subcommission on the Promotion and Protection of Human Rights, resolution 2004/58, on the Working Group and the International Decade of the World's Indigenous People, and resolution 2004/59, on the working group of the Commission on Human Rights to elaborate a draft declaration.[1]

C. Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people

4. In its resolution 2004/62 of 21 April 2004, the Commission extended the mandate of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people for an additional period of three years.[1] The Special Rapporteur, Rodolfo Stavenhagen (Mexico), accepted a second term. Within the framework of his mandate, as established by the Commission in resolution 2001/57

of 24 April 2001,[2] the Special Rapporteur undertook, during the period under review, a wide range of activities. These are described in detail in his first report to the General Assembly (see A/59/258).

D. Permanent Forum on Indigenous Issues

5. The third session of the Permanent Forum on Indigenous Issues was held at United Nations Headquarters, from 10 to 21 May 2004. The Forum addressed the issues of indigenous women, education, culture, human rights, economic and social development, the environment, health and its future work. Within the framework of the Forum, a high-level panel was convened to consider the issue of indigenous women. The Chairperson-Rapporteur of the Working Group on Indigenous Populations and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people made presentations and took part in discussions with members of the Forum on future cooperation among the three mechanisms relating to indigenous people.[3]

E. Seminar on treaties, agreements and other constructive arrangements between States and indigenous peoples

6. In accordance with Economic and Social Council decision 2003/271 of 23 July 2003, seminar on treaties, agreements and other constructive arrangements between States and indigenous peoples was held in Geneva, from 15 to 17 December 2003. The conclusions and recommendations of the seminar were submitted to the Commission on Human Rights at its sixtieth session (see E/CN.4/2004/111), and a summary of the discussions held during the seminar was submitted to the Working Group on Indigenous Populations at its twenty-second session (see E/CN.4/Sub.2/AC.4/2004/7 and Corr.1).

F. Seminar of experts on indigenous peoples and the administration of justice

7. The seminar of experts on indigenous peoples and the administration of justice, organized by the Office of the High Commissioner in cooperation with the National University for Distance Education of Spain, was held in Madrid, from 12 to 14 November 2003. The seminar was attended by over 100 indigenous and governmental experts, academics and representatives of non-governmental organizations, as well as by the Special Rapporteur. The experts discussed issues related to discrimination against indigenous people in the judicial system and the legal systems of indigenous people, and drew up a set of conclusions and recommendations that included the proposal that exhaustive reviews and, if necessary, reforms of justice systems be carried out to better protect the rights of indigenous people. It was considered that such reforms should include respect for indigenous legal customs, language and culture in the courts and the administration of justice; the full participation of indigenous people in justice reform; and the establishment of alternative justice mechanisms. The report of the seminar is contained in E/CN.4/Sub.2/AC.4/2004/6.

G. Evaluation of the impact of the Decade

Preliminary review

8. The report of the Secretary-General on the preliminary review of the International Decade of the World's Indigenous People was submitted to the Economic and Social Council at its substantive session of 2004 (E/2004/82). The report provides a summary of the activities undertaken by the Office of the High Commissioner and the organizations of the United Nations system during the period 1995-2004, and of the information received from seven Member States and six indigenous peoples' organizations. The report concludes by noting advances in the area of inter-agency cooperation in regard to indigenous issues, the establishment of the Permanent Forum on Indigenous Issues and the mandate of the Special Rapporteur of the Commission on Human Rights on the situation of human rights and fundamental freedoms of indigenous people, and the implementation of activities contained in the programme of activities adopted by the General Assembly. Despite the important institutional developments that have taken place within the framework of the Decade, the report acknowledges that indigenous people in many countries continue to be among the poorest and the most marginalized. It notes that the adoption of a declaration on the rights of indigenous people — one of the main objectives of the Decade — has not been achieved. The report considers that further efforts are needed by the Member States concerned and the international community to ensure that all indigenous people everywhere enjoy full human rights and enjoy real and measurable improvements in their living conditions.

Evaluation seminar

9. December 2004 will mark the end of the Decade and, with this in view, the Advisory Group of the United Nations Voluntary Fund for the International Decade of the World's Indigenous People, at its ninth session in April 2004, recommended that a technical seminar be held to evaluate the contribution and impact of the United Nations Voluntary Fund for Indigenous Populations and the Voluntary Fund for the Decade in achieving the goals of the Decade. The seminar was held in Geneva on 15 and 16 July, prior to the twenty-second session of the Working Group on Indigenous Populations, and was attended by some 30 indigenous representatives, 20 governmental delegates and several representatives of United Nations agencies and non-governmental organizations. The first part of the seminar was dedicated to the evaluation of the impact of the funds and the second part to their future in the light of such developments as the closure of the Decade and the establishment of other voluntary funds for indigenous people in the United Nations system. Several past beneficiaries of the funds shared with the seminar participants their experiences regarding the impact of the funds in improving the situation in their communities. They described how both project and travel grants had been of assistance in that regard. The conclusions of the seminar can be summarized as follows: it was considered that the two voluntary funds had contributed to the realization of the objectives of the Decade by empowering indigenous people and promoting and protecting their rights through the provision of support for activities and projects. The voluntary funds were considered to represent an expression of partnership with indigenous people by involving them in the decision-making

processes of the United Nations through the Board of Trustees and the Advisory Group, respectively.

10. The participants considered that the Voluntary Fund for the Decade had been innovative in funding projects that had been developed by indigenous people for indigenous people. It was further noted that the mandates of the funds were in line with the Secretary-General's agenda for reform and his efforts to involve civil society more directly in the work of the Organization. The funds promoted peaceful solutions and dialogue and thereby contributed to the core mandate of the Charter of the United Nations. The participants recommended that the Coordinator of the Decade encourage the General Assembly to proclaim a second decade for indigenous people and to extend the mandate of the Voluntary Fund for the Decade. The full report on the seminar can be obtained from the Office of the High Commissioner.

Questionnaire to evaluate the Decade

11. The Office of the High Commissioner distributed at several United Nations meetings relating to indigenous people, including the third session of the Permanent Forum, a questionnaire inviting indigenous organizations to give their views on the impact of the Decade. In the questionnaires, indigenous people were asked if there had been improvements in their communities during the Decade. The replies, received from 50 organizations (36 per cent) noted positive changes. They referred to better access to development projects, improved information on indigenous rights, the strengthening of local indigenous organizations, and an increase in indigenous participation in local authorities. Forty-four per cent of respondents said that there had been no improvements at the community level and a small percentage said that the situation had worsened. In answer to the question as to whether there had been improvements at the national level, 52 per cent of respondents noted positive changes and referred to the recognition of indigenous identity and other indigenous rights, better indigenous representation in political institutions, the multiplication or strengthening of indigenous organizations, and the creation of national indigenous institutions. On the other hand, 44 per cent confirmed that few or no changes had occurred at the national level and that indigenous people should be more involved in political decisions; some noted a regression in national policies. Sixty-eight per cent of respondents indicated that, at the international level, the Decade had brought positive changes, including better access to diverse international activities, and exchange of experience and contacts with other indigenous organizations and representatives; some expressed the wish for the declaration of a second decade. Fourteen per cent of respondents stated that they did not know about the Voluntary Fund for the Decade and some complained that there was unequal access to international meetings. In answer to the question on what type of future activities should be undertaken, 44 per cent of respondents said that they would like to have more information about United Nations activities, especially at the local and national levels, and about training courses on indigenous rights for communities; 30 per cent wanted better access to development programmes and funds related to indigenous women's rights, education, health and protection of the environment; 20 per cent wanted their organizations to receive greater support; and 14 per cent wished to have greater participation within the United Nations system.

H. Cooperation between the Office of the United Nations High Commissioner for Human Rights and the United Nations Human Settlements Programme (UN-Habitat)

12. The Office of the High Commissioner, in cooperation with the United Nations Human Settlements Programme (UN-Habitat), is continuing its research project on the housing rights of indigenous people. This research indicates that, despite some focused policies and practices in a number of countries, indigenous people suffer from worse living and housing conditions than the population at large. The final report of this research initiative, including case studies from Australia, Canada, Ecuador, Finland, Kenya, Mexico, Norway, Sweden, the Philippines and the Russian Federation, is expected to be published towards the end of 2004. The highlights of the research findings, concluding observations and preliminary recommendations are summarized in the note by the Secretariat on information received from the United Nations system (E/C.19/2004/5, sect. IV).

I. Community-led human rights training

13. In the line with its efforts to strengthen community-based human rights training for indigenous people and on the recommendation of the Advisory Group for the Voluntary Fund for the International Decade of the World's Indigenous People, the Office of the High Commissioner provided a grant to the Foundation for Research and Support for the Indigenous Peoples of Crimea for the organization of a human rights training workshop. The community-based training was held in Simferopol, Ukraine, from 21 to 23 June 2004. Some 200 indigenous persons attended the training, which included presentations on national human rights protection and on relevant international standards relating to indigenous people. The Office of the High Commissioner provided resource persons for the meeting.

J. Indigenous Fellowship Programme

14. The Indigenous Fellowship Programme, currently in its eighth year, is implemented by the Office of the High Commissioner and supported through the regular budget of the United Nations. Under the 2004 programme, which began on 3 May and will end on 1 October, intensive and comprehensive training in human rights is provided by United Nations experts and resource persons drawn from the staff of the Office. The programme also provides an opportunity for the fellows to gain practical experience at United Nations meetings, including the sessions of the working groups on the rights of indigenous people and of the human rights treaty bodies, and to learn about the technical cooperation activities of the Office. The Office also organizes study visits to the headquarters of several Geneva-based specialized agencies, including the International Labour Organization, the World Health Organization and the World Intellectual Property Organization, as well as to several non-governmental organizations. Furthermore, in 2004 the fellows spent two weeks at the United Nations Educational, Scientific and Cultural Organization in Paris. The Indigenous Fellowship Programme gives indigenous individuals the opportunity to gain experience in human rights and the United Nations system and to serve as resource persons in their communities upon their return. The indigenous

persons participating in the 2004 programme were from Denmark (Greenland), Kenya, Myanmar, Solomon Islands and Ukraine.

15. The Indigenous Fellowship Programme includes a complementary training component for indigenous people from Latin America, organized in cooperation with the Institute for Human Rights at the University of Deusto in Bilbao, Spain. The four-and-a-half-month training component for Spanish-speaking indigenous persons is now in its fifth year. The programme provides human rights training at the Institute and practical experience with the Office of the High Commissioner in Geneva. The four indigenous persons participating in the Deusto programme in 2004 were from Argentina, Brazil, Colombia and Mexico.

16. In 2002, a pilot project for French-speaking indigenous people was launched in cooperation with the University of Burgundy in Dijon, France. Three indigenous persons were funded to participate in that programme. The programme lasted one month, with two weeks at the university and two weeks at the Office of the High Commissioner. The programme content was evaluated very positively. In 2003, five French-speaking indigenous people followed the programme. In September 2004, four French-speaking indigenous people from France (New Caledonia), Mali and Morocco will follow the programme for a period of two and a half months.

K. Working Group on Indigenous Populations

17. The principal theme discussed at the twenty-second session of the Working Group on Indigenous Populations was "Indigenous peoples and conflict resolution". Information provided by indigenous representatives showed that the realization of the rights of indigenous people can be an important conflict resolution mechanism. Under the item on standard-setting, the principle of free, prior and informed consent and the protection of the heritage of indigenous people were discussed with a view to elaborating guidelines on both topics. The Working Group considered two working papers on the topics, prepared jointly by experts of the Working Group and indigenous organizations (E/CN.4/Sub.2/AC.4/2004/4 and E/CN.4/Sub.2/AC.4/2004/5). More than 600 persons participated in the work of the twenty-second session, including two members of the Permanent Forum. The report of the Working Group is contained in E/CN.4/Sub.2/2004/28.

L. Technical cooperation programme

18. The Office of the High Commissioner continues to integrate indigenous issues into its technical cooperation programmes. At present, technical cooperation projects in several countries in Latin America include specific activities that benefit indigenous people. Such activities consist of training representatives of indigenous people's organizations and strengthening the capacity of the State institutions responsible for the protection of human rights that have a specific mandate in regard to indigenous people.

M. Inter-agency consultation

19. In September 2003, the inter-agency support group met at the headquarters of the World Intellectual Property Organization to prepare for the third session of the Permanent Forum on Indigenous Issues. An inter-agency meeting was also convened by the Office of the High Commissioner on 18 July 2004, prior to the twenty-second session of the Working Group on Indigenous Populations.

N. United Nations Voluntary Fund for Indigenous Populations

20. Information on the United Nations Voluntary Fund for Indigenous Populations for the period 2003/2004 is contained in the biennial report of the High Commissioner on the status of the Fund (see A/59/257).

O. Voluntary Fund for the International Decade of the World's Indigenous People

21. In accordance with General Assembly resolutions 48/163 of 21 December 1993, 49/214 of 23 December 1994 and 50/157 of 21 December 1996, the purpose of the Voluntary Fund for the International Decade of the World's Indigenous People is to accept and administer voluntary contributions for the purpose of funding projects and programmes during the Decade. The Fund receives contributions from Governments, non-governmental organizations and other public or private entities. In accordance with paragraph 23 of the annex to resolution 50/157, an advisory group was established to assist the secretariat of the Fund. The current Advisory Group is composed of the members of the Board of Trustees of the United Nations Voluntary Fund for Indigenous Populations, who are all indigenous experts, the Chairperson-Rapporteur of the Working Group on Indigenous Populations and another United Nations expert who is a specialist in project and programme management and is appointed by the High Commissioner for Human Rights in her capacity as Coordinator of the Decade. The most recent reports of the Secretariat on the Fund are contained in E/CN.4/2004/79 and E/CN.4/Sub.2/AC.4/2004/9. Information on the Fund is also available on the web site of the Office of the High Commissioner, under "Fundraising". Additional information can be obtained from the secretariat of the Fund, Office of the High Commissioner.

22. At its ninth session, held from 22 to 26 March 2004, the Advisory Group reviewed the financial situation of the Fund and the contributions made by regular and new donors since its eighth session. After making the mandatory provisions for programme support costs (13 per cent) and the operating cash reserve (15 per cent) in accordance with the relevant United Nations financial rules, US$ 376,867 were available. The Advisory Group examined 159 admissible applications for project grants received within the deadline, which represented an amount of US$ 2,810,000. Taking into consideration the limited resources available and the selection criteria, the Advisory Group recommended for approval by the Secretary-General grants for 35 project, totalling US$ 243,500 (see E/CN.4/Sub.2/AC.4/2004/9, annex IV). Funding was also made available for a publication on the Decade and three community-led human rights training workshops, to be held in different regions. The Advisory Group also reviewed the status of the 58 outstanding narrative and

financial reports from organizations that had received a grant from the Fund between 1998 and 2002. The Group recommended that the organizations that had received a grant in 1999 and 2000 and that had not fulfilled their reporting obligations should submit the overdue reports immediately. The secretariat is in the process of informing these organizations that failure to submit their reports by the established deadline may result in their being asked to refund the grants. The Advisory Group also reviewed the status of project grants allocated to 48 organizations in 2003.

23. The geographical distribution of the project grants recommended by the Advisory Group at its ninth session, the voluntary contributions received by the Fund during the period from 1 April 2003 to 30 July 2004, outstanding pledges as at 30 July 2004 and the number of grants approved during the period 1998-2004 are shown in tables 1 to 4 below.

Table 1
Geographical distribution of grants recommended by the Advisory Group at its ninth session

Geographical area	*Number of project grants awarded*	*Amount (United States dollars)*
Africa	11	85 000
Americas	10	70 500
Asia	11	75 000
Europe	3	13 000
Total	**35**	**243 500**

Table 2
Contributions received by the Voluntary Fund for the International Decade of the World's Indigenous People, 1 April 2003-30 July 2004

Donor	*Amount (United States dollars)*	*Date on which payment was registered*	*Location where payment was received*
Australia[a]	15 182	14 April 2003	Geneva
Chile	1 000	31 July 2003	New York
Canada	11 044	16 March 2004	Geneva
Denmark	73 512	11 March 2004	Geneva
Estonia	11 816	30 December 2003	Geneva
France[a]	11 333	20 May 2003	Geneva
Greece	3 000	8 August 2003	Geneva
Japan	11 520	17 November 2003	Geneva
Luxembourg[a]	2 454	20 May 2003	Geneva
Netherlands[a]	55 334	1 April 2003	Geneva
New Zealand[a]	5 333	9 September 2003	Geneva
Norway[a]	49 168	2 May 2003	Geneva

Donor	*Amount (United States dollars)*	*Date on which payment was registered*	*Location where payment was received*
Sweden[a]	18 727	7 April 2003	Geneva
Switzerland[a]	14 666	14 April 2003	Geneva
Mr. Yorio Shiokawa	221	4 August 2003	Geneva
	356	11 September 2003	Geneva
United Nations Staff Gala[a]	8 818	20 May 2003	Geneva

[a] Contributions refer to the transfer to the Fund of the remaining balance of contributions originally made to the United Nations Voluntary Fund for the International Year of the World's Indigenous People.

Table 3
Outstanding pledges as at 30 July 2004

Donor	*Amount (United States dollars)*	*Date pledged*	*Location where pledged*
Algeria	5 000	23 December 2002	Geneva

Table 4
Number of grants approved, 1998-2004

Year recommended (Advisory Group session)	*Admissible applications received*	*Application amount (United States dollars)*	*Grants approved*	*Amount of grant (United States dollars)*
1998 (third)	44	-	13	139 016
1999 (fourth)	94	4 161 178	24	232 000
2000 (fifth)	58	2 796 688	20	174 955
2001 (sixth)	82	3 699 880	30	252 606
2002 (seventh)	102	2 814 752	43	390 152
2003 (eighth)	197	5 000 000	48	274 000
2004 (ninth)	159	2 810 000	35	243 500

Notes

[1] See E/2004/23 (Part I). The complete report of the Commission will be issued as *Official Records of the Economic and Social Council, 2004, Supplement No. 3*.

[2] See ibid., *2001, Supplement No. 3* (E/2001/23), chap. II, sect. A.

[3] The report of the Forum on its third session has been issued as *Official Records of the Economic and Social Council, 2004, Supplement No. 23* (E/2004/43).

United Nations A/59/278

General Assembly

Distr.: General
18 August 2004

Original: English

Fifty-ninth session
Item 66 (g) of the provisional agenda*
General and complete disarmament

The issue of missiles in all its aspects

Report of the Secretary-General

Contents

		Paragraphs	Page
I.	Introduction	1	2
II.	Organizational matters	2–5	2
Annex			
	List of members of the Panel of Governmental Experts on the Issue of Missiles in All its Aspects		3

* A/59/150.

04-46377 (E) 310804

I. Introduction

1. In operative paragraph 3 of its resolution 58/37, the General Assembly requested the Secretary-General, with the assistance of a panel of governmental experts to be established in 2004 on the basis of equitable distribution, to explore further the issue of missiles in all its aspects and to submit a report for consideration by the General Assembly at its fifty-ninth session. The present report is submitted in response to that request.

II. Organizational matters

2. In accordance with the terms of the resolution, the Secretary-General appointed the Panel of Governmental Experts on the Issue of Missiles in All its Aspects with members from 23 States: Argentina, Australia, Austria, Brazil, Canada, China, Czech Republic, Egypt, France, India, Islamic Republic of Iran, Israel, Japan, Malaysia, Morocco, Pakistan, Republic of Korea, Russian Federation, South Africa, Sweden, Ukraine, United Kingdom of Great Britain and Northern Ireland, and United States of America. The list of experts is contained in the annex.

3. The Panel held three sessions at United Nations Headquarters during 2004, the first from 23 to 27 February, the second from 17 to 21 May and the third from 19 to 23 July. At its first session, the Panel unanimously elected Santiago Irazabal Mourão of Brazil as its Chairman.

4. The Weapons of Mass Destruction Branch of the Department for Disarmament Affairs served as secretariat to the Panel.

5. In accordance with its mandate as contained in resolution 58/37, the Panel had a comprehensive, in-depth exchange of views on all aspects of the issue of missiles. Furthermore, the Panel took account of the views expressed in the replies received from Member States in response to General Assembly resolution 57/71, as well as in the papers made available by individual Panel members. However, given the complexity of the issues at hand, no consensus was reached on the preparation of a final report.

Annex

List of members of the Panel of Governmental Experts on the Issue of Missiles in All its Aspects

Mohsen Naziri Asl (second session)
Director, Ministry for Foreign Affairs of the Islamic Republic of Iran

Lotfi Bouchaara
Counsellor, Permanent Mission of Morocco to the United Nations

Chun Yung-woo
Deputy Permanent Representative of the Republic of Korea to the United Nations

David Cooper
Director, Non-Proliferation Policy
Office of the Secretary of Defence of the United States of America

Asif Ali Khan Durrani (first and second sessions)
Counsellor, Permanent Mission of Pakistan to the United Nations

Richard Ekwall
Director, Department for Strategic Export Control
Ministry for Foreign Affairs of Sweden

Khalil Ur-Rahman Hashmi (third session)
First Secretary, Permanent Mission of Pakistan to the United Nations

Tariq Osman Hyder (second session)
Additional Secretary, Ministry of Foreign Affairs of Pakistan

Alaa Issa
Counsellor, Permanent Mission of Egypt to the United Nations

Jeremy Issacharoff
Deputy Director-General for Strategic Affairs
Ministry for Foreign Affairs of Israel

Wernfried Köffler
Director for Disarmament, Arms Control and Non-Proliferation
Federal Ministry for Foreign Affairs of Austria

Barend J. Lombard
Deputy Director, Nuclear and Non-Proliferation
Department of Foreign Affairs of South Africa

Vitali A. Lukyantsev
Senior Counsellor, Department for Security and Disarmament Matters
Ministry for Foreign Affairs of the Russian Federation

Ma Shengkun
Deputy Division Director, Department of Arms Control and Disarmament
Ministry for Foreign Affair of China

Robert McDougall
Director, Non-Proliferation, Arms Control and Disarmament
Ministry of Foreign Affairs of Canada

Santiago Irazabal Mourão
Counsellor, Division for Disarmament and Sensitive Technologies
Ministry for Foreign Affairs of Brazil

Reza Najafi (first and third sessions)
Counsellor, Permanent Mission of the Islamic Republic of Iran
to the United Nations

François Richier
Director, Non-Proliferation and Nuclear Disarmament
Department for Strategic Affairs of the Ministry for Foreign Affairs of France

Renato Carlos Sersale di Cerisano
Director of International Security, Nuclear and Space Affairs
Ministry for Foreign Affairs of Argentina

Anatoliy Scherba
Head of Arms Control and Military and Technical Cooperation
Ministry of Foreign Affairs of Ukraine

Harsh Vardhan Shringla (third session)
Counsellor, Permanent Mission of India to the United Nations

Paul Stephens
Counsellor, Permanent Mission of Australia to the United Nations

Takaya Suto
Director, Centre for the Promotion of Disarmament
Japan Institute of International Affairs

D. B. Venkatesh Varma (first and second sessions)
Director, Disarmament and International Security Affairs Division
Ministry of External Affairs of India

Josef Vitek
Counsellor, Permanent Mission of the Czech Republic to the United Nations

Andrew Wood
Assistant Director, Head, Export Control Policy,
Counter Proliferation and Arms Control Section
Ministry of Defence of the United Kingdom

Zainal Mohd. Noor
Staff Officer I, Department of Artillery
Ministry of Defence of Malaysia

United Nations A/59/278/Corr.1

General Assembly

Distr.: General
13 September 2004

Original: English

Fifty-ninth session
Item 66 (g) of the provisional agenda
General and complete disarmament

The issue of missiles in all its aspects

Report of the Secretary-General

Corrigendum

Annex

In the list of members, the entry for Robert McDougall *should* read:

Robert McDougall
Director, Non-Proliferation, Arms Control and Disarmament
Foreign Affairs Canada

04-50841 (E) 130904

United Nations A/59/279

General Assembly

Distr.: General
18 August 2004

Original: English

Fifty-ninth session
Item 76 of the provisional agenda*
United Nations Relief and Works Agency for Palestine Refugees in the Near East

Palestine refugees' properties and their revenues

Report of the Secretary-General**

Summary

On 12 April 2004, the Secretary-General addressed notes verbales to Israel and all other Member States, drawing their attention to the relevant provisions of General Assembly resolutions 58/91 to 58/95, in particular paragraph 4 of resolution 58/94, and requesting information by 31 May 2004 concerning any action taken or envisaged in relation to their implementation. On 17 June 2004, the Secretary-General addressed a note to Israel regarding the resolutions cited above, repeating his request for information and asking for a reply by 1 July 2004. Replies covering various aspects of resolutions 58/91 to 58/95 were received from the following Member States: Syrian Arab Republic (10 May 2004), Estonia (14 May 2004), Sweden (7 June 2004), Austria (9 June 2004), Switzerland (10 June 2004) and Israel (12 July 2004). The full text of the replies are reproduced in the present report. No information has been received from other Member States regarding the request contained in paragraph 4 of resolution 58/94.

* A/59/150.

** The present report was submitted after the established deadline in order to include as much updated information as possible.

04-46343 (E) 080904

1. The present report is submitted in pursuance of General Assembly resolution 58/94 of 9 December 2003, on Palestine refugees' properties and their revenues.

2. On 12 April 2004, the Secretary-General drew the attention of the Permanent Representative of Israel to the United Nations to Assembly resolutions 58/91 to 58/95, all of 9 December 2003, and requested that the Permanent Representative of Israel inform him by 31 May of any steps that his Government had taken or envisaged taking in implementation of the relevant provisions of the resolutions. On 17 June 2004, the Secretary-General reminded the Permanent Representative of Israel of his request of 12 April and requested a reply by 1 July 2004.

3. Also on 12 April, the Secretary-General addressed a note verbale to all other Member States, drawing their attention to the relevant provisions of resolutions 58/91 to 58/95, in particular paragraph 4 of resolution 58/94, and requesting information by 31 May 2004 concerning any action taken or envisaged in relation to their implementation.

4. A reply dated 11 May 2004 was received from the Syrian Arab Republic, covering various aspects of resolutions 58/91 to 58/95. The text reads as follows:

> "The Syrian Arab Republic voted for resolutions 58/91, 58/92, 58/93 and 58/94. It reaffirms the necessity of solving the problem of the Palestine refugees in accordance with the resolutions of international legitimacy on the matter, including Security Council resolution 73 (1949) of 11 August 1949 which called for the implementation of General Assembly resolution 194 (III) of 11 December 1948 and which provided, in paragraph 11, that the refugees should be permitted to return to their homes and should be compensated for the loss of or damage to their property.
>
> "The Government of the Syrian Arab Republic expresses its rejection of the continuing attempts of the Israeli Government to undermine the right of the Palestine refugees to return and also conveys its deep concern with respect to the situation of the Palestine refugees who are living outside the territories from which they were driven, particularly in connection with their safety, well-being and living conditions.
>
> "The sufferings of the Palestine refugees in the occupied Palestinian territory have been exacerbated by Israel's persistence in the policies of killing, destruction and closure and the building of the racist separation wall which is an aggression against the officials of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and its installations, violating international law, the four Geneva Conventions, the Charter of the United Nations and the Convention on the Privileges and Immunities of the United Nations of 1946.
>
> "The Syrian Arab Republic has extended direct assistance and support to the more than 500,000 Palestine refugees whom it has accommodated since Israel occupied their territories in 1948, and also provides facilities and assistance to UNRWA, thus ensuring its continued existence. The Government of the Syrian Arab Republic affirms once again that it will continue to give support and assistance to UNRWA in order to ensure the continuation of the Agency's operations and services until the occupation is ended and the Palestine refugees return to their homes.

"The Syrian Arab Republic affirms the right of all those who have been displaced as a result of the killings that began in June 1967, and have continued since, to return to their homes or their previous places of residence in the territories occupied by Israel since 1967. It also affirms the right of the Palestine refugees to their property and to the income derived from it in accordance with the principles of equity and justice and the resolutions of international legitimacy.

"The Syrian Arab Republic also joined the Group of Arab States in abstaining in the vote on resolution 58/95, entitled 'Assistance to Palestine refugees and support for the United Nations Relief and Works Agency for Palestine Refugees in the Near East'. It did so because the resolution did not include the legal and political principles underlying the problem of the Palestine refugees and was an attempt to disregard their rights which have been guaranteed by the resolutions of the United Nations and by international law.

"The Government of the Syrian Arab Republic calls on the international community to address the problem of the Palestine refugees in accordance with the resolutions of the United Nations which have specified the inalienable right of the Palestinian people to self-determination and to return to their homes. The Syrian Arab Republic affirms that any settlement that ignores those rights will not lead to a just and comprehensive solution of the conflict in the Middle East and will not bring about security and stability in the region."

5. A reply dated 14 May 2004 was received from Estonia, covering various aspects of resolutions 58/91 to 58/95. The text reads as follows:

"The Permanent Mission of the Republic of Estonia to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to forward following information in reply to the note verbale DPA/APD/GA/RES 58/91-95, dated 12 April 2004.

"In 2003, the Government of Estonia made voluntary contributions to several United Nations agencies, but no contribution was specifically made to the United Nations Relief and Works Agency for Palestine Refugees in the Near East.

"Concerning resolution 58/94, the Government of Estonia has no information in its possession concerning Arab property, assets and property rights in Israel that would assist the Secretary-General in the implementation of the resolution."

6. A reply dated 7 June 2004 was received from Sweden, covering various aspects of resolutions 58/91 to 58/95. The text reads as follows:

"The Permanent Representative of Sweden to the United Nations presents his compliments to the Secretary-General of the United Nations and with reference to the latter's note verbale DPA/APD/GA/RES 58/91-95 dated 12 April 2004, has the honour to inform him of the following.

"For the UNRWA Conference to be held in Geneva on 7 and 8 June 2004, Sweden is heading one of the four workshops on the well being of the Palestinian child. A lot of efforts and resources have been put into that process."

7. A reply dated 9 June 2004 was received from Switzerland, covering various aspects of resolutions 58/91 to 58/95. The text reads as follows:

"The Permanent Mission of Switzerland to the United Nations presents its compliments to the Secretariat of the Organization and has the honour to refer to its note verbale DPA/APD/GA/RES/58/91-95 dated 12 April 2004, concerning General Assembly resolutions 58/91 to 58/95, relating to the United Nations Relief and Works Agency for Palestine Refugees in the Near East, with regard to the report to be submitted to the General Assembly.

"The Mission informs the Secretariat that Switzerland has no specific contribution to make in this context."

8. A reply dated 12 July 2004 was received from Israel, covering various aspects of resolutions 58/91 to 58/95. The text reads as follows:

"The Permanent Representative of Israel to the United Nations presents his compliments to the Secretary-General of the United Nations and has the honour to refer to the latter's note Verbale DPA/APD/GA/RES 58/91-95 dated 17 June 2004, concerning resolutions 58/91 to 58/95 adopted by the General Assembly under the agenda item entitled 'United Nations Relief and Works Agency for Palestine Refugees in the Near East'.

"The position of the State of Israel on these resolutions has been set forth in successive annual replies submitted to the Secretary-General in recent years. In the light of the desire of the State of Israel to bring an end to all acts of violence and terrorism in the region, improve the humanitarian situation and achieve a negotiated settlement in the context of the Road Map, Israel wishes to put its position on this matter on record.

"Israel supports the humanitarian mission of UNRWA and recognizes its important contribution to the welfare of Palestinian refugees. We remain concerned, however, regarding a number of issues related to the politicization of UNRWA operations and the need to take due account of the campaign of terror being waged against Israel's citizens. As a humanitarian agency, it is also incumbent upon UNRWA to refrain from any actions or statements concerning political questions beyond its mandate. Israel is concerned that UNRWA has failed to address the problems caused to the fulfilment of its mandate by the extensive terrorist infrastructure that has taken root in Palestinian 'refugee camps'. While Israel recognizes that UNRWA does not have a mandate to enforce security and public order, Israel urges UNRWA to draw attention to the misuse of these 'camps' by armed elements that violate Security Council resolutions and international law, and pose a clear danger to the safety and security of the civilian population, and the safe fulfilment of the UNRWA mandate.

"Israel believes that any resolution adopted with respect to UNRWA should focus on its operations, and not on extraneous political issues which are introduced to single out one country, to prejudge issues reserved by agreement for permanent status negotiations or to further the interests of one side to a conflict. There is no reason why resolutions on UNRWA, whose mission the international community supports, should be divisive and political.

"Israel supports efforts to consolidate UNRWA resolutions and remove them of extraneous political references. This goal is consistent also with general efforts aimed at the reform and revitalization of the General Assembly's agenda. In this context, and as a result of the efforts of the resolution's sponsors, Israel was able to vote in favour of resolution 58/95. Unfortunately, however, other UNRWA resolutions continue to be rife with irrelevant politicized rhetoric and superfluous or repetitious language. Accordingly, Israel voted against resolutions 58/91, 58/92, 58/93 and 57/94.

"Israel looks forward to continuing its cooperation and working relationship with UNRWA. Accordingly, Israel urges the Secretary-General and UNRWA to consider, together with the parties concerned, ways in which the organization can enhance the fulfilment of its mandate in an accountable and responsible manner in the best interests of those whom UNRWA has been charged to serve."

9. No information has been received from other Member States with regard to the request contained in paragraph 4 of resolution 58/94.

United Nations A/59/280

General Assembly

Distr.: General
19 August 2004

Original: English

Fifty-ninth session
Item 117 of the provisional agenda*
Joint Inspection Unit

Report of the Joint Inspection Unit on Administration of Justice: harmonization of the statutes of the United Nations Administrative Tribunal and the International Labour Organization Administrative Tribunal

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Joint Inspection Unit entitled "Administration of the Statutes of the United Nations Administrative Tribunal and the International Labour Organization Administrative Tribunal" (JIU/REP/2004/3).

* A/59/150.

04-47263 (E) 090904

JIU/REP/2004/3

ADMINISTRATION OF JUSTICE :

Harmonization of the Statutes of the United Nations Administrative Tribunal and the International Labour Organization Administrative Tribunal

Prepared by

Wolfgang Münch

Victor Vislykh

M. Deborah Wynes

Joint Inspection Unit

Geneva
2004

In accordance with Article 11.2 of the JIU Statute, this report has been "finalized after consultations among the Inspectors so as to test the recommendations being made against the collective wisdom of the Unit".

CONTENTS

		Paragraphs	Page
Executive Summary			iv
I.	**Brief overview of the main differences between the Tribunals**	1-4	1
II.	**Recommendations**	5-6	3
III.	**General observations on the financial implications of harmonization**	7-9	4
IV.	**Concluding comments**	10	5
End Notes			6
Annex I:	***Organizations that recognize the jurisdiction of ILOAT***		7
Annex II:	***Comparison of the Statutes of UNAT and ILOAT***		8-12
Annex III:	***Payments made in implementation of Administrative Tribunal judgements 1999 to 2003 (United Nations and ILO only)***		13

EXECUTIVE SUMMARY

Objective: To provide a definitive opinion on the feasibility of harmonizing the statutes of the United Nations Administrative Tribunal (UNAT) and the International Labour Organization Administrative Tribunal (ILOAT) with the view to closing the gap between the two and removing the perception of inequality and discrimination in administration of justice within the United Nations family, thus strengthening the United Nations common system.

A. The General Assembly in resolution 57/307 noted that "the staff of the United Nations secretariat and the specialized agencies are subject to two different systems of administration of justice...". In this regard, the General Assembly requested the Joint Inspection Unit (JIU) to continue to study the possibility of harmonizing the statutes of the United Nations Administrative Tribunal (UNAT) and the International Labour Organization Administrative Tribunal (ILOAT), bearing in mind the information contained in paragraphs 39 to 42 of the report of the Secretary-General A/56/800, for consideration by the General Assembly at its fifty-ninth session.

B. After reviewing previous reports, studies and recommendations dealing with the harmonization and possible unification of the Administrative Tribunals,[1] the Inspectors conclude that there are only three major differences between the Tribunals, they relate to:

1. Selection and appointment of members of the Tribunals;
2. Authority of the Tribunals to order specific performance by the executive heads; and
3. Limitations on the amount of compensation that may be awarded by the Tribunals.

C. Eliminating these discrepancies should close the gap between the two Tribunals, removing the perception of inequality within the United Nations internal justice system and strengthening the United Nations common system with regard to administration of justice. The Inspectors are of the view that all other differences in the statutes and practices of the two Tribunals are minor and do not materially affect the administration of justice thus bringing any further harmonization of the statutes to a close.

Recommendation 1: The General Assembly should continue to keep under review the issue of selection and appointment of members of UNAT with a view to bringing these practices into conformity with the statute and practices of ILOAT.

Recommendations 2: The General Assembly should amend article 10 of the UNAT statute to bring it into conformity with the ILOAT statute and settle the issues of specific performance and compensation limitations.

Recommendation 3: The General Assembly should continue to treat, as a matter of priority, the improvement of other elements of the process of internal justice that precede the Tribunal stage of a dispute. Those processes are slow and cumbersome; expediting and improving those measures may lead to fewer cases being brought to the Tribunal and result in less costly decisions and procedures.

Recommendation 4: The Secretary-General, in his capacity as chairman of the United Nations System Chief Executives Board for Coordination (CEB), should invite the Board to develop a mechanism to enhance cooperation and facilitate professional exchange and regular dialogue between UNAT, ILOAT and other international administrative tribunals, particularly with respect to the uniform and consistent application of case law which is the primary determinant of fair and equal systems of justice.

I. BRIEF OVERVIEW OF THE MAIN DIFFERENCES BETWEEN THE TRIBUNALS

1. UNAT is the independent organ competent to hear and pass judgement upon applications alleging non-observance of contracts of employment of staff members of the United Nations Secretariat or of their terms of appointment as well as applications alleging non-observance of the regulations and rules of the United Nations Joint Staff Pension Fund, arising out of decisions by the Fund. The Tribunal was established by the General Assembly in its resolution 351A (IV) of 24 November 1949 by the adoption of its Statute.[2] The UNAT Statute was amended by resolution 782B (VIII) on 9 December 1953, by resolution 957 (X) on 8 November 1955, by resolution 50/54 on 11 December 1995, by resolution 52/166 on 15 December 1997, by resolution 55/159 on 31 January 2001 and by resolution 58/87 on 9 December 2003.

2. The competence of the Tribunal extends to the secretariats of associated funds and programmes that are financed from voluntary contributions, such as the United Nations Children's Fund, United Nations Development Programme, United Nations Population Fund, United Nations High Commissioner for Refugees and the United Nations Relief and Works Agency for Palestine Refugees in the Near East, as well as the International Maritime Organization, International Civil Aviation Organization, International Seabed Authority and the registries of the International Court of Justice and the International Tribunal for the Law of the Sea.[3]

3. ILOAT is the successor of the League of Nations Tribunal. The International Labour Conference adopted the Statute of ILOAT in 1946 and undertook amendments in 1949, 1986, 1992 and 1998. It hears complaints from serving and former officials of the International Labour Organization (ILO) or one of the other international organizations that recognise its jurisdiction. The Tribunal is competent to hear complaints against more than forty international organizations, including the majority of the United Nations specialized agencies (see Annex I).

4. While there are many differences between the statutes and practices of the two Tribunals, the Unit has been able to identify only three discrepancies that may be perceived as having the potential to materially affect the consistency and uniformity of the case law within the United Nations system. They relate to:

i) Selection and appointment of UNAT members and ILOAT judges

Article 3 (1) of the Statute of UNAT states: "*The Tribunal shall be composed of seven members, no two of whom may be nationals of the same State. Members shall possess judicial or other relevant legal experience in the field of administrative law or its equivalent within the member's national jurisdiction...*".

Article III (1) of the Statute of ILOAT states: "*The Tribunal shall consist of seven judges who shall all be of different nationalities.*"

The International Labour Conference appoints ILOAT judges, after nomination by the Director-General of ILO and following consultations with the Officers of the Governing Body (representing all the tripartite constituents of the

Organization, namely Governments, Employers and Workers); these nominations are subsequently endorsed by the ILO Governing Body, for submission to the ILO Conference, where they are approved. By contrast, Governments nominate UNAT members, and their election in the Fifth Committee is confirmed by the General Assembly.

The procedure of selection and appointment of UNAT members might potentially be perceived as diminishing the independence, quality and experience of that Tribunal in comparison to ILOAT and other international administrative tribunals. As the judges at ILOAT are professional judges and therefore bound by strict professional ethics, usually from the highest national courts, they are generally perceived as being more independent and experienced and this positively influences staff confidence in that Tribunal.

ii) The authority of the Tribunals to order specific performance by the executive heads

Article 10 (1) of the statute of UNAT states: *"If the Tribunal finds that the application is well founded, it shall order the rescinding of the decision contested or the specific performance of the obligation invoked.* ***At the same time***[4] *the Tribunal shall fix the amount of compensation to be paid to the applicant for the injury sustained should the Secretary-General, within thirty days of the notification of the judgement, decide, in the interest of the United Nations, that the applicant shall be compensated without further action being taken in his case...".*

In other words, UNAT must automatically fix, as part of its original judgement, an amount of compensation to be paid to the applicant, leaving it to the Secretary-General to decide, whether, "in the interest of the United Nations", he prefers to comply with the order for rescission or performance, or to pay the amount indicated by the Tribunal. In practice, until recently, the Secretary-General has almost always chosen to pay the compensation rather than to rescind the contested administrative decision.

With regard to ILOAT, it is the Tribunal itself that decides whether rescission or performance "is not possible or desirable", in which case it awards the applicant monetary compensation. It is worth mentioning however, that rarely and in respect of lower-level officials (those not directly appointed by the Executive Heads of the Organizations), has the ILOAT required specific performance without giving the respondent organization the choice of paying compensation.

The fact that it is the Secretary-General and not UNAT who decides whether, in the interest of the United Nations, to comply with the order for rescission or performance, or to pay the amount indicated by the Tribunal,[5] undermines staff confidence in the Tribunal and raises questions regarding the independence and fairness of the process. It also creates an impression that ILOAT enjoys greater authority than UNAT. UNAT itself has stated that this specific gap "represents a glaring example of injustice and discrimination between the two categories of staff members working under the United Nations system."[6]

iii) Compensation limitations

The statute of the ILO Administrative Tribunal does not provide a specific limit on the monetary compensation that may be awarded to a claimant. However, article 10 of the UNAT statute provides that in normal circumstances the amount of compensation should be limited to two years net base salary of the claimant. The Inspectors note that in the past five years this limit was rarely exceeded. Moreover, in practice the ILOAT awards very rarely exceed UNAT limits. For example, in the case of ILO itself, there have been no cases in the past five years that exceeded this limit (see Annex III). Nevertheless, the existence of these caps contributes to a perception of a more limited authority of UNAT vis-à-vis ILOAT, as observed earlier.

II. RECOMMENDATIONS

5. The Unit considers that the issue of harmonization of the statutes of UNAT and ILOAT has been on the agenda of the United Nations for too long and over the years has become unnecessarily complicated to the detriment of the administration of justice at the United Nations. The Inspectors strongly recommend that this matter be finalized and that decisive steps be taken to eliminate the three most important remaining discrepancies between the statutes of UNAT and ILOAT. In this context, it is recommended that the statute of UNAT be amended to conform to that of ILOAT, particularly as regards the selection and appointment of members of the Tribunal, specific performance and compensation limitations. Noting the potential of each of these issues to affect the uniformity of case law, the relevant amendments to the UNAT statute is considered a priority.

i) Selection and appointment of members

The Inspectors are of the view that the appointment, in consultation with all interested parties, of professional judges from national courts with relevant experience in labour law and administrative law would undoubtedly be ideal for UNAT. However, they are also aware that this process may take time and would therefore concur, as an interim measure, with the General Assembly's approach to strengthen UNAT through the recent amendment of its statute, which provides that "*Members shall possess judicial or other relevant legal experience in the field of administrative law or its equivalent within the member's national jurisdiction...*".[7] The General Assembly should continue to pay attention to the level of qualifications of members of UNAT with the view to ensuring the appointment of professional judges and the high standards of the Tribunal.

ii) Authority of the Tribunals to order specific performance by the executive heads

The discrepancy between the statutes regarding specific performance should be addressed immediately. The JIU does not share the view that the appropriate modification of the UNAT statute would affect the prerogatives of the Secretary-General as Chief Administrative Officer of the Organization. In this regard the Unit notes that the executive heads of the organizations that

recognize the jurisdiction of ILOAT do not appear to have such a concern, despite the fact that the final decision in respect of rescission or performance rests with the Tribunal.

The Secretary-General recently expressed his willingness to reconsider his position on specific performance.[8] The JIU welcomes this readiness and recommends that consideration be given to adopting an approach similar to that of ILOAT regarding specific performance.

iii) Compensation limitations

The Inspectors recommend that the two-year net base salary limit on award for claimants should be eliminated and that the approach of ILOAT and other international administrative tribunals should be followed. This will not have significant financial implications provided the processing period for cases before UNAT is reduced from the current five years (including hearings of the Joint Appeals Board) to around one year, which is the norm in other international organizations. It is expected that the Office of Internal Oversight Services' management review of the appeals process, requested by the General Assembly in its resolution 57/307, will contribute to reducing the processing period and ensuring greater efficiency in this regard.[9] If the processing period is not likely to be reduced in the near future, the Unit recommends that the Secretary-General's proposal to increase the amount of compensation to three years net base salary be adopted as an interim measure.[10]

6. Until now, the case law of UNAT and ILOAT has been surprisingly uniform and consistent, largely because the bases for decision-making in international administrative law are generally universal. In spite of this, there have been some discrepancies in case law that could be avoided with better cooperation between the Tribunals.[11] It is recommended that a mechanism be developed to enhance cooperation between UNAT and ILOAT as well as with other international administrative tribunals such as the Tribunals of the World Bank, International Monetary Fund, Organization for Economic Cooperation and Development, Council of Europe, Organization of American States, etc. The Inspectors note, for example, that the European Space Agency is developing a database of case law of all international administrative tribunals, which could be a base for further cooperation between tribunals. The United Nations System Chief Executives Board for Coordination should consider this at one of its sessions.

III. GENERAL OBSERVATIONS ON THE FINANCIAL IMPLICATIONS OF HARMONIZATION

7. In the context of broader financial issues, the Inspectors explored the possible budgetary implications that would result from harmonization of the statutes of the UNAT and ILOAT or the elimination of the three main outstanding differences between these statutes. Based on this review it is apparent that there would most likely be no significant budgetary implications.

8. An amendment regarding specific performance should have a positive impact, since presumably it will lead to a reduction in the number of cases in which compensation is granted in lieu of rescission of the contested administrative decision. The removal of the cap on the amount of compensation that may be awarded to claimants can have some limited financial implications. However, it should be noted that in exploring the practice of other international administrative tribunals that do not impose limits on compensation the Inspectors found that the United Nations standard is rarely exceeded.

9. The Inspectors are convinced that the elimination of UNAT's two-year net base salary cap must be accompanied by a reduced, timelier processing period for cases. It is recalled that the average processing period for cases in the United Nations recourse procedure is five years while at ILO it is around one year.

IV. CONCLUDING COMMENTS

10. The JIU considers that a single internal justice system is a desirable future goal of the United Nations system. However, such a goal should not simply involve the unification of the two Tribunals. Indeed, such unification does not appear to be achievable in the short term for a number of reasons, including the strong opposition to it by staff of both the United Nations and the ILO. Neither would such unification achieve, as has been stressed in previous reports, any significant benefits or efficiency gains. Should the creation of a single tribunal for the whole United Nations system continue to be a consideration, it is likely that a separate entity would have to be established, incorporating the best practices of UNAT and ILOAT as well as other international administrative tribunals. Upon the request of the General Assembly, the JIU would be willing to continue to explore the modalities for the establishment of any such tribunal.

End Notes

[1] Report of the Secretary-General on Administration of Justice in the Secretariat (A/56/800), 13 February 2002; Report of the Secretary-General on the Feasibility of Establishing a Single Administrative Tribunal (A/42/328), 15 June 1987; Study on Administrative Tribunal: Procedures and Unification, initiated by the Administrative Committee on Coordination (ACC) and undertaken by the consultant, Gurdon Wattles (CCAQ/PER/R.107, Annex II); and Reports of the Joint Inspection Unit (A/41/640, A/55/57and A/57/441)

[2] UN Office of Legal Affairs, Secretariat of the United Nations Administrative Tribunal (http://untreaty.un.org/ola-internet/unat.htm)

[3] Comprehensive Report on the Activities of the United Nations Administrative Tribunal (A/58/680), 14 January 2004, para.10

[4] Bold type added for emphasis

[5] Report of the Secretary-General on the Feasibility of Establishing a Single Administrative Tribunal (A/42/328), 15 June 1987, para.50

[6] Letter dated 8 November 2002 from the President of the United Nations Administrative Tribunal addressed to the Chairman of the Fifth Committee (A/C.5/57/25), 20 November 2002, Annex II, para.2

[7] General Assembly Resolution on Administration of Justice at the United Nations (A/RES/58/87), 9 December 2003

[8] Report of the Secretary-General on Administration of Justice in the Secretariat (A/56/800), 13 February 2002, para.42

[9] General Assembly Resolution on Administration of Justice in the Secretariat (A/RES/57/307), 15 April 2003, paras.8-11,

[10] Report of the Secretary-General on Administration of Justice in the Secretariat (A/56/800), 13 February 2002, para.43

[11] In 1978, the Director-General of ILO, on the basis of an advisory opinion given by the ILOAT judges, took an administrative decision with regard to the remuneration of General Service staff of that Organization which differed from recommendations of the International Civil Service Commission as approved by the General Assembly. This prompted the General Assembly to adopt resolution 33/119 in which it requested the Secretary-General to study the feasibility of establishing a single administrative tribunal for the entire common system.

ANNEX I

Organizations that recognize the jurisdiction of UNAT and ILOAT

UNAT	ILOAT
United Nations Secretariat	International Labour Organization (ILO), including the International Training Centre (ITCILO)
United Nations Development Programme (UNDP)	World Health Organization (WHO), including the Pan American Health Organization (PAHO)
United Nations Children's Fund (UNICEF)	United Nations Educational, Scientific and Cultural Organization (UNESCO)
United Nations Population Fund (UNFPA)	International Telecommunication Union (ITU)
United Nations High Commissioner for Refugees (UNHCR)	World Meteorological Organization (WMO)
United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)	Food and Agriculture Organization of the United Nations (FAO)
	World Food Programme (WFP)
International Maritime Organization (IMO)	European Organization for Nuclear Research (CERN)
International Civil Aviation Organization (ICAO)	World Trade Organization (WTO)
International Seabed Authority	International Atomic Energy Agency (IAEA)
Registry of the International Court of Justice (ICJ)	World Intellectual Property Organization (WIPO)
Registry of the International Tribunal for the Law of the Sea	European Organization for the Safety of Air Navigation (Eurocontrol)
	Universal Postal Union (UPU)
	European Southern Observatory (ESO)
	Intergovernmental Council of Copper Exporting Countries (CIPEC)
	European Free Trade Association (EFTA)
	Inter-Parliamentary Union (IPU)
	European Molecular Biology Laboratory (EMBL)
	World Tourism Organization (WTO)
	European Patent Office (EPO)
	African Training and Research Centre in Administration for Development (CAFRAD)
	Intergovernmental Organization for International Carriage by Rail (OTIF)
	International Centre for the Registration of Serials (CIEPS)
	International Office of Epizootics (OIE)
	United Nations Industrial Development Organization (UNIDO)
	International Criminal Police Organization (Interpol)
	International Fund for Agricultural Development (IFAD)
	International Union for the Protection of New Varieties of Plants (UPOV)
	Customs Co-operation Council (CCC)
	Court of Justice of the European Free Trade Association (EFTA Court)
	Surveillance Authority of the European Free Trade Association (ESA)
	International Service for National Agricultural Research (ISNAR)
	International Organization for Migration (IOM)
	International Centre for Genetic Engineering and Biotechnology (ICGEB)
	Organization for the Prohibition of Chemical Weapons (OPCW)
	International Hydrographic Organization (IHO)
	Energy Charter Conference (ECC)
	International Federation of Red Cross and Red Crescent Societies
	Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO PrepCom)
	European and Mediterranean Plant Protection Organization (EPPO)
	International Plant Genetic Resources Institute (IPGRI)
	International Institute for Democracy and Electoral Assistance (International IDEA)
	International Criminal Court (ICC)
	International Olive Oil Council (IOOC)

ANNEX II

COMPARISON OF THE STATUTES OF UNAT AND ILOAT[1]

UNAT Statute		ILOAT Statute
Art.1 A Tribunal is established by the present Statute to be known as the United Nations Administrative Tribunal.	**Establishment of the Tribunal**	**Art. I** There is established by the present Statute a Tribunal to be known as the International Labour Organization Administrative Tribunal.
Art.2 1. The Tribunal shall be competent to hear and pass judgement upon applications alleging non-observance of contracts of employment of staff members of the Secretariat of the United Nations or of the terms of appointment of such staff members. The words "contracts" and "terms of appointment" include all pertinent regulations and rules in force at the time of alleged non-observance, including the staff pension regulations. 2. The Tribunal shall be open: (a) To any staff member of the Secretariat of the United Nations even after his or her employment has ceased, and to any person who has succeeded to the staff member's rights on his or her death; (b) To any other person who can show that he or she is entitled to rights under any contract or terms of appointment, including the provisions of staff regulations and rules upon which the staff member could have relied. 3. In the event of a dispute as to whether the Tribunal has competence, the matter shall be settled by the decision of the Tribunal. 4. The Tribunal shall not be competent, however, to deal with any applications where the cause of complaint arose prior to 1 January 1950.	**Competence**	**Art. II** 1. The Tribunal shall be competent to hear complaints alleging non-observance, in substance or in form, of the terms of appointment of officials of the International Labour Office, and of such provisions of the Staff Regulations as are applicable to the case. 2. The Tribunal shall be competent to settle any dispute concerning the compensation provided for in cases of invalidity, injury or disease incurred by an official in the course of his employment and to fix finally the amount of compensation, if any, which is to be paid. 4. The Tribunal shall be competent to hear disputes arising out of contracts to which the International Labour Organization is a party and which provide for the competence of the Tribunal in any case of dispute with regard to their execution. 6. The Tribunal shall be open: (a) to the official, even if his employment has ceased, and to any person on whom the official's rights have devolved on his death; (b) to any other person who can show that he is entitled to some right under the terms of appointment of a deceased official or under provisions of the Staff Regulations on which the official could rely. 7. Any dispute as to the competence of the Tribunal shall be decided by it, subject to the provisions of Art. XII (…the question of the validity of the decision given by the Tribunal shall be submitted by the Governing Body, for an advisory opinion, to the International Court of Justice.)
Art.3 1. The Tribunal shall be composed of seven members, no two of whom may be nationals of the same State. Members shall possess judicial or other relevant legal experience in the field of administrative law or its equivalent within the member's national jurisdiction. Only three members shall sit in any particular case. 2. The members shall be appointed by the General Assembly for four years and may be reappointed once. A member appointed to replace a member whose term of office has not expired shall hold office for the remainder of his or her predecessor's term, and may be reappointed once. 3. The Tribunal shall elect its President and its two Vice-Presidents from among its members. 5. No member of the Tribunal can be dismissed by the General Assembly unless the other members are of the unanimous opinion that he or she is unsuited for further service. 6. In case of a resignation of a member of the Tribunal, the resignation shall be addressed to the President of the Tribunal for transmission to the Secretary-General. This last notification makes the place vacant.	**Composition of the Tribunal**	**Art. III** 1.The Tribunal shall consist of seven judges who shall all be of different nationalities. 2. The judges shall be appointed for a period of three years by the Conference of the International Labour Organization. **Rules of the ILOAT, adopted 24 November 1993** **Art. 1** 1. The Tribunal shall elect a President and a Vice-President. 2. Election shall be by vote of the majority of its members.

[1] **The underlined text highlights the main differences between the two statutes.**

Art.4 The Tribunal shall hold ordinary sessions at dates to be fixed by its rules, subject to there being cases on its list which, in the opinion of the President, justify holding the session. Extraordinary sessions may be convoked by the President when required by the cases on the list.	**Sessions**	**Art. IV** The Tribunal shall hold ordinary sessions at dates to be fixed by the Rules of Court, subject to there being cases on its list and to such cases being, in the opinion of the President, of a character to justify holding the session. An extraordinary session may be convened at the request of the Chairman of the Governing Body of the International Labour Office.
Art.5 1. The Secretary-General of the United Nations shall make the administrative arrangements necessary for the functioning of the Tribunal. 2. The expenses of the Tribunal shall be borne by the United Nations. **Art.3** 4. The Secretary-General shall provide the Tribunal with an Executive Secretary and such other staff as may be considered necessary.	**Administrative Arrangements**	**Art. IX** 1. The administrative arrangements necessary for the operation of the Tribunal shall be made by the International Labour Office in consultation with the Tribunal. 2. Expenses occasioned by sessions of the Tribunal shall be borne by the International Labour Office. **Rules of the ILOAT, adopted 24 November 1993** Art. 2 The Tribunal shall have a Registrar and an Assistant Registrar appointed by the Director-General of the International Labour Office.
Art.6 1. Subject to the provisions of the present Statute, the Tribunal shall establish its rules. 2. The rules shall include provisions concerning: (a) Election of the President and Vice-Presidents; (b) Composition of the Tribunal for its sessions; (c) Presentation of applications and the procedure to be followed in respect to them; (d) Intervention by persons to whom the Tribunal is open under paragraph 2 of article 2, whose rights may be affected by the judgement; (e) Hearing, for purposes of information, of persons to whom the Tribunal is open under paragraph 2 of article 2, even though they are not parties to the case; and generally (f) Other matters relating to the functioning of the Tribunal.	**Rules**	**Art. X** 1. Subject to the provisions of the present Statute, the Tribunal shall draw up Rules of Court covering: (a) the election of the President and Vice-President; (b) the convening and conduct of its sessions; (c) the rules to be followed in presenting complaints and in the subsequent procedure including intervention in the proceedings before the Tribunal by persons whose rights as officials may be affected by the judgment; (d) the procedure to be followed with regard to complaints and disputes submitted to the Tribunal by virtue of paragraphs 3 and 4 of article II; (e) and, generally, all matters relating to the operation of the Tribunal which are not settled by the present Statute. 2. The Tribunal may amend the Rules of Court.

Art.7 1. An application shall not be receivable unless the person concerned has previously submitted the dispute to the joint appeals body provided for in the Staff Regulations and the latter has communicated its opinion to the Secretary-General, except where the Secretary-General and the applicant have agreed to submit the application directly to the Administrative Tribunal. 2. In the event of the joint body's recommendations being favourable to the application submitted to it, and insofar as this is the case, an application to the Tribunal shall be receivable if the Secretary-General has: (a) Rejected the recommendations; (b) Failed to take any action within thirty days following the communication of the opinion; (c) Failed to carry out the recommendations within thirty days following the communication of the opinion. 3. In the event that the recommendations made by the joint body and accepted by the Secretary-General are unfavourable to the applicant, and insofar as this is the case, the application shall be receivable, unless the joint body unanimously considers that it is frivolous. 4. An application shall not be receivable unless it is filed within ninety days reckoned from the respective dates and periods referred to in paragraph 2 above, or within ninety days reckoned from the date of the communication of the joint body's opinion containing recommendations unfavourable to the applicant. If the circumstance rendering the application receivable by the Tribunal, pursuant to paragraphs 2 and 3 above, is anterior to the date of announcement of the first session of the Tribunal, the time limit of ninety days shall begin to run from that date. Nevertheless, the said time limit on his or her behalf shall be extended to one year if the heirs of a deceased staff member or the trustee of a staff member who is not in a position to manage his or her own affairs files the application in the name of the said staff member. 5. In any particular case, the Tribunal may decide to suspend the provisions regarding time limits. 6. The filing of an application shall not have the effect of suspending the execution of the decision contested. 7. The application may be filed in any of the six official languages of the United Nations.	**Complaints**	**Art. VII** 1. A complaint shall not be receivable unless the decision impugned is a final decision and the person concerned has exhausted such other means of resisting it as are open to him under the applicable Staff Regulations. 2. To be receivable, a complaint must also have been filed within ninety days after the complainant was notified of the decision impugned or, in the case of a decision affecting a class of officials, after the decision was published. 3. Where the Administration fails to take a decision upon any claim of an official within sixty days from the notification of the claim to it, the person concerned may have recourse to the Tribunal and his complaint shall be receivable in the same manner as a complaint against a final decision. The period of ninety days provided for by the last preceding paragraph shall run from the expiration of the sixty days allowed for the taking of the decision by the Administration. 4. The filing of a complaint shall not involve suspension of the execution of the decision impugned.
Art.8 Where the three members of the Tribunal sitting in any particular case consider that the case raises a significant question of law, they may, at any time before they render judgment, refer the case for consideration by the whole Tribunal. The quorum for a hearing by the whole Tribunal shall be five members.	**Composition in Exceptional Cases**	**Art. III** 3. A meeting of the Tribunal shall be composed of three judges or, in exceptional circumstances, five, to be designated by the President, or all seven.
Art.9 The oral proceedings of the Tribunal shall be held in public unless the Tribunal decides that exceptional circumstances require that they be held in private.	**Oral Proceedings**	**Art. V** The Tribunal shall decide in each case whether the oral proceedings before it or any part of them shall be public or in camera.

Art.10 1. If the Tribunal finds that the application is well founded, it shall order the rescinding of the decision contested or the specific performance of the obligation invoked. At the same time, the Tribunal shall fix the amount of compensation to be paid to the applicant for the injury sustained should the Secretary-General, within thirty days of the notification of the judgment, decide, in the interest of the United Nations, that the applicant shall be compensated without further action being taken in his or her case, *provided that such compensation shall not exceed the equivalent of two years' net base salary of the applicant*. The Tribunal may, however, in exceptional cases, when it considers it justified, order the payment of a higher indemnity. A statement of the reasons for the Tribunal's decision shall accompany each such order. 2. Should the Tribunal find that the procedure prescribed in the Staff Regulations or Staff Rules has not been observed, it may, at the request of the Secretary-General and prior to the determination of the merits of the case, order the case remanded for institution or correction of the required procedure. Where a case is remanded, the Tribunal may order the payment of compensation, which is not to exceed the equivalent of three months' net base salary, to the applicant for such loss as may have been caused by the procedural delay. 3. In all applicable cases, compensation shall be fixed by the Tribunal and paid by the United Nations or, as appropriate, by the specialized agency participating under article 14.	**Substantive Powers of the Tribunal**	**Art. VIII** In cases falling under article II, the Tribunal, if satisfied that the complaint was well founded, shall order the rescinding of the decision impugned or the performance of the obligation relied upon. If such rescinding of a decision or execution of an obligation is not possible or advisable, the Tribunal shall award the complainant compensation for the injury caused to him. **Art. IX** 3. Any compensation awarded by the Tribunal shall be chargeable to the budget of the International Labour Organization.
Art.11 1. The Tribunal shall take all decisions by a majority vote. 2. Subject to the provisions of article 12, the judgements of the Tribunal shall be final and without appeal. 3. The judgements shall state the reasons on which they are based. 4. The judgements shall be drawn up, in any of the six official languages of the United Nations, in two originals, which shall be deposited in the archives of the Secretariat of the United Nations. 5. A copy of the judgement shall be communicated to each of the parties in the case. Copies shall also be made available on request to interested persons.	**Judgements**	**Art. VI** 1. The Tribunal shall take decisions by a majority vote; judgments shall be final and without appeal. 2. The reasons for a judgment shall be stated. The judgment shall be communicated in writing to the Director-General of the International Labour Office and to the complainant. 3. Judgments shall be drawn up in a single copy, which shall be filed in the archives of the International Labour Office, where it shall be available for consultation by any person concerned.
Art.12 The Secretary-General or the applicant may apply to the Tribunal for a revision of a judgement on the basis of the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgement was given, unknown to the Tribunal and also to the party claiming revision, always provided that such ignorance was not due to negligence. The application must be made within thirty days of the discovery of the fact and within one year of the date of the judgement. Clerical or arithmetical mistakes in judgements, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Tribunal either of its own motion or on the application of any of the parties.	**Revision of Judgements**	**Art. XII** 1. In any case in which the Governing Body of the International Labour Office or the Administrative Board of the Pensions Fund challenges a decision of the Tribunal confirming its jurisdiction, or considers that a decision of the Tribunal is vitiated by a fundamental fault in the procedure followed, the question of the validity of the decision given by the Tribunal shall be submitted by the Governing Body, for an advisory opinion, to the International Court of Justice. 2. The opinion given by the Court shall be binding.

Art.13 The present Statute may be amended by decision of the General Assembly.	**Amendments**	**Art. XI** The present Statute shall remain in force during the pleasure of the General Conference of the International Labour Organization. It may be amended by the Conference or such other organ of the Organization as the Conference may determine.
Art.14 1. The competence of the Tribunal shall be extended to the staff of the Registry of the International Court of Justice upon the exchange of letters between the President of the Court and the Secretary-General of the United Nations establishing the relevant conditions. 2. The Tribunal shall be competent to hear and pass judgement upon applications alleging non-observance of the regulations of the United Nations Joint Staff Pension Fund arising out of the decision of the United Nations Joint Staff Pension Board submitted to the Tribunal by: (a) Any staff member of a member organization of the Pension Fund which has accepted the jurisdiction of the Tribunal in Pension Fund cases who is eligible under article 21 of the regulations of the Fund as a participant in the Fund, even if his or her employment has ceased, and any person who has acceded to such staff member's rights upon his or her death; (b) Any other person who can show that he or she is entitled to rights under the regulations of the Pension Fund by virtue of the participation in the Fund of a staff member of such member organization. 3. The competence of the Tribunal may be extended to any specialized agency brought into relationship with the United Nations in accordance with the provisions of Articles 57 and 63 of the Charter upon the terms established by a special agreement to be made with each such agency by the Secretary-General of the United Nations. Each such special agreement shall provide that the agency concerned shall be bound by the judgements of the Tribunal and be responsible for the payment of any compensation awarded by the Tribunal in respect of a staff member of that agency and shall include, inter alia, provisions concerning the agency's participation in the administrative arrangements for the functioning of the Tribunal and concerning its sharing the expenses of the Tribunal. 4. The competence of the Tribunal may also be extended, with the approval of the General Assembly, to any other international organization or entity established by a treaty and participating in the common system of conditions of service, upon the terms set out in a special agreement between the organization or entity concerned and the Secretary-General of the United Nations. Each such special agreement shall provide that the organization or entity concerned shall be bound by the judgements of the Tribunal and be responsible for the payment of any compensation awarded by the Tribunal in respect of a staff member of that organization or entity and shall include, inter alia, provisions concerning its participation in the administrative arrangements for the functioning of the Tribunal and concerning its sharing the expenses of the Tribunal.	**Jurisdiction of the Tribunal**	**Art. II** 5. The Tribunal shall also be competent to hear complaints alleging non-observance, in substance or in form, of the terms of appointment of officials and of provisions of the Staff Regulations of any other international organization meeting the standards set out in the Annex which has addressed to the Director-General a declaration recognizing, in accordance with its Constitution or internal administrative rules, the jurisdiction of the Tribunal for this purpose, as well as its Rules of Procedure, and which is approved by the Governing Body. **Art. II** 3. The Tribunal shall be competent to hear any complaint of non-observance of the Staff Pensions Regulations or of rules made in virtue thereof in regard to an official or the wife, husband or children of an official, or in regard to any class of officials to which the said Regulations or the said rules apply. 4. The Tribunal shall be competent to hear disputes arising out of contracts to which the International Labour Organization is a party and which provide for the competence of the Tribunal in any case of dispute with regard to their execution. **Annex to the Statute of the Administrative Tribunal of the International Labour Organization** To be entitled to recognize the jurisdiction of the Administrative Tribunal of the International Labour Organization, an international organization must either be intergovernmental in character, or fulfil the following conditions: a) it shall be clearly international in character, having regard to its membership, structure and scope of activity; b) it shall not be required to apply any national law in its relations with its officials, and shall enjoy immunity from legal process as evidenced by a headquarters agreement concluded with the host country; and c) it shall be endowed with functions of a permanent nature at the international level and offer, in the opinion of the Governing Body, sufficient guarantees as to its institutional capacity to carry out such functions as well as guarantees of compliance with the Tribunal's judgments.

ANNEX III

PAYMENTS MADE IN IMPLEMENTATION OF ADMINISTRATIVE TRIBUNAL JUDGEMENTS 1999 TO 2003

(figures in respect of the United Nations and the International Labour Organization only)

United Nations			ILO		
Judgement no.	**Decision**	**Amount paid**	**Judgement no.**	**Decision**	**Amount paid**
1999			**1999**		
914	18 months nbs	$ 118,662.12	1875	$ 2,000 (costs) - $ 20,000 (damages)	$ 22,000.00
915	2 months nbs	$ 4,584.62	1881	4½ months salary and benefits less any interim occupational earnings	$ 24,313.22
925	1 year nbs	$ 71,086.01			
923	2 months nbs at time of separation	$ 11,264.66			
936	3 years nbs	$ 245,042.52			
941	6 months nbs	$ 25,346.04			
937	5 months nbs	$ 14,475.05			
2000			**2000**		
981	18 months nbs	$ 7,730.10	1974	16,000,000 CFA francs (minus amounts already paid) 1,000,000 CFA francs in costs	CFA 8,426,247
974	3 months nbs	$ 26,336.85			
986	$ 800 to each of 31 applicants	$ 24,800.00			
988	Payment of $ 2,500 in addition to JAB payment of $ 5,500	$ 2,500.00			
948	3 month nbs	$ 8,336.25			
980	6 months nbs	$ 35, 874.90			
2001			**2001**		
1008	27 months nbs at date of separation	$ 154,519.38	2067	FF 20,000 (costs) € 3,000 (moral damages)	€ 6,000
997	Payment of $ 10,000.00	$ 10,000.00			
1030	1 month nbs	$ 7,698.08	2083	CHF 3,000 (costs)	CHF 3,000
1097	9 months nbs at date of seperation	$ 42,058.53			
1009	$ 30,000 in compensation	$ 30,000.00			
1031	1 year nbs	$ 87,081.00			
1040	$ 22,500 in compensation	$ 22,500.00			
1035	1 month nbs	$ 5,771.25			
1028	Payment of applicable DSA	$ 51,993.00			
1039		na			
1023	2 years nbs plus $ 30,000	$ 153,970.00			
1022	2 years nbs	$ 184,388.00			
1029	1 year nbs plus $50,000	$ 94,813.67			
United Nations			ILO		

Judgement no.	Decision	Amount paid	Judgement no.	Decision	Amount paid
2002			2007		
1062	4 months nbs	$ 13,229.02			
1049	Payment of $12,000	$ 12,000.00			
1069	6 months nbs	$ 41,081.00			
1060	Payment of $ 50,000	$ 50,000.00			
1043	6 months nbs	$ 23,672.00			
1048	3 months nbs	$ 11,960.76			
1067	3 months nbs	$ 19,729.75			
1070	Payment of $ 5,125 plus interest	$ 5,535.00			
1058	1 year nbs	$ 59,438.00			
1074	1 month nbs	$ 7,314.00			
1075	Retroactive dependency benefits	$ 58,553.19			
1057	2 months nbs	$ 6,819.56			
1047	Payment of $ 1,000	$ 1,000.00			
1098	Retroactive dependency benefits plus 6 months nbs	$ 29,694.80			
1086	Payment of $ 1,000	$ 1,000.00			
1085	1 month nbs	$ 5,269.00			
1090	Difference in grade	$ 2,819.35			
1080	Retroactive SPA plus 4 months nbs	$ 51,776.13			
1099	Payment of grade difference	$ 7,017.33			
1081	15 months nbs	$ 86,131.35			
1052	2 years nbs	$ 98,233.00			
1072	2 years nbs plus 3 months nbs	$ 251,216.98			
1087	1 month nbs	$ 6,688.00			
2003			2008		
1104	Payment of $ 5,000	$ 5,000.00			
1134	Payment of $1,001 compensation	$ 1,001.00			
1115	6 months nbs & retroactive payments	$ 63,479.84			
1118	3 months nbs plus 3 months nbs for undue delay	$ 28,515.00			
1112	Difference in grade	$ 2,004.53			
1122	6 months nbs	$ 38,633.00			
1129	Retroactive long-service step	$ 8,753.58			
1108	Payment of $ 2,000 compensation	$ 2,000.00			
1136	Difference in grade plus 1 year nbs	$ 93,242.20			
1136	Difference in grade + 6 months nbs	$ 33,451.09			

Key: nbs = net base salary
na = not available

United Nations A/59/280/Add.1

General Assembly

Distr.: General
22 September 2004

Original: English

Fifty-ninth session
Items 117 and 122 of the provisional agenda*

Joint Inspection Unit

Administration of justice at the United Nations

Report of the Joint Inspection Unit on administration of justice: harmonization of the statutes of the United Nations Administrative Tribunal and the International Labour Organization Administrative Tribunal

Note by the Secretary-General

Addendum

Summary

Pursuant to section 4 (d) of the statute of the Joint Inspection Unit (JIU), the present report contains the comments of the Secretary-General on the report of JIU entitled "Administration of justice: harmonization of the statutes of the United Nations Administrative Tribunal and the International Labour Organization Administrative Tribunal". The JIU report was mandated by the General Assembly in its resolution 57/307.

The idea of harmonizing the statutes of the United Nations Administrative Tribunal and the International Labour Organization (ILO) Administrative Tribunal has been a subject of ongoing debate in the Organization for the last several years. The position of the Secretary-General on the matter was explained in his report (A/56/800) and remains valid vis-à-vis the recommendations contained in the JIU report.

* A/59/150.

04-51843 (E) 300904

I. Introduction

1. The main objective of the Joint Inspection Unit (JIU) report, as indicated by the Unit, is "to provide a definitive opinion on the feasibility of harmonizing the statutes of the United Nations Administrative Tribunal and the International Labour Organization Administrative Tribunal with the view to closing the gap between the two and removing the perception of inequality and discrimination in administration of justice within the United Nations family, thus strengthening the United Nations common system".

2. In paragraph 15 of General Assembly resolution 57/307, JIU was mandated "to continue studying the possibility of harmonizing the statutes of the United Nations Administrative Tribunal and the International Labour Organization Administrative Tribunal, bearing in mind the information contained in paragraphs 39 to 42 of the report of the Secretary-General (A/56/800), for consideration by the General Assembly at its fifty-ninth session". The General Assembly noted with concern in the same paragraph that "the staff of the United Nations Secretariat and the specialized agencies are subject to two different systems of administration of justice".

3. The Secretary-General welcomes the JIU report and invites the Assembly to take into consideration the views expressed in his recent report on the administration of justice in the Secretariat (A/56/800), which remain valid with regard to the JIU report.

II. Comments on specific recommendations

Recommendation 1

The General Assembly should continue to keep under review the issue of selection and appointment of members of the United Nations Administrative Tribunal with a view to bringing these practices into conformity with the statute and practices of the ILO Administrative Tribunal.

Recommendation 2

The General Assembly should amend article 10 of the United Nations Administrative Tribunal statute to bring it into conformity with the ILO Administrative Tribunal statute and settle the issues of specific performance and compensation limitations.

4. In considering recommendations 1 and 2 above, the views expressed by the Secretary-General in his report (A/56/800) still apply. Paragraphs 36 to 38 of that report discuss and compare the provisions of the statutes of the ILO Administrative Tribunal and the United Nations Administrative Tribunal on the issues of selection, appointment and qualifications of members, and their respective powers to grant compensation and specific performance. Paragraphs 39 to 43 outline the issues to be considered before making any changes to the statutes.

5. In paragraph 39 of that report, the Secretary-General expressed the view that the "issue of specific performance should not be viewed in isolation". Other criteria, notably the selection criteria, procedures and qualifications of tribunal members, should be taken into account at the same time. The General Assembly may wish to

bear this in mind when considering recommendation 1. It should also be noted that, when considering recently the issue of modifying the qualifications of members of the United Nations Administrative Tribunal, the Assembly decided in paragraph 14 of resolution 57/307 to amend the United Nations Administrative Tribunal statute so that its members would be required to "possess judicial experience in the field of administrative law or its equivalent within the candidate's national jurisdiction". However, the Assembly later decided in its resolution 58/87 to amend article 3, paragraph 1 of the statute so that United Nations Administrative Tribunal members would be required to "possess judicial or other relevant legal experience in the field of administrative law or its equivalent within the member's national jurisdiction". The addition of the words "or other relevant legal" effectively confirmed the differences in the qualifications of the members of the Tribunals between the two statutes. In respect of recommendation 2, the Secretary-General expressed his willingness "to reconsider his position on the question of specific performance *if the statutes and practices of the two tribunals were fully harmonized*" (A/56/800, para. 42, emphasis added), and also suggested that "alternatively, the current system could be retained with an increase in the limit of compensation" (A/56/800, para. 43).

Recommendation 3

The General Assembly should continue to treat, as a matter of priority, the improvement of other elements of the process of internal justice that precede the Tribunal stage of a dispute. Those processes are slow and cumbersome; expediting and improving those measures may lead to fewer cases being brought to the Tribunal and result in less costly decisions and procedures.

6. The Secretary-General agrees that every effort should be made to expedite and improve elements of the process of internal justice that precede the Tribunal stage of a dispute. The Office of Internal Oversight Services (OIOS) will be submitting to the Assembly at its fifty-ninth session its report on the management review of the appeals process with recommendations on how to improve the process and make it more expeditious. As requested by the Assembly, the report of the Secretary-General on this issue will take account of OIOS findings and make recommendations.

Recommendation 4

The Secretary-General, in his capacity as chairman of the United Nations System Chief Executives Board for Coordination, should invite the Board to develop a mechanism to enhance cooperation and facilitate professional exchange and regular dialogue between the United Nations Administrative Tribunal, the ILO Administrative Tribunal and other international administrative tribunals, particularly with respect to the uniform and consistent application of case law, which is the primary determinant of fair and equal systems of justice.

7. The scope of the recommendation to "develop a mechanism to enhance cooperation and facilitate professional exchange and regular dialogue between the United Nations Administrative Tribunal, the ILO Administrative Tribunal and other international administrative tribunals, particularly with respect to the uniform and consistent application of case law, which is the primary determinant of fair and equal systems of justice" is unclear. In paragraph 6 of the JIU report, the inspectors

note that "the European Space Agency is developing a database of case law of all international administrative tribunals, which could be a base for further cooperation between tribunals". If the recommendation of the inspectors is limited to the use of jurisprudence of other tribunals before the United Nations Administrative Tribunal in a persuasive capacity rather than as precedent, it should be noted that the United Nations Administrative Tribunal and the ILO Administrative Tribunal routinely rely on and cite each other's jurisprudence. Consequently, access to the database being elaborated by the European Space Agency would be of benefit. It should also be noted that statutes, judgements and other such documentation as the annual reports of the United Nations Administrative Tribunal to the Assembly are readily available to all interested parties. On the other hand, if the cooperation between Tribunals envisaged by the Joint Inspection Unit implies the active involvement by one Tribunal in the consideration of a specific case by the other Tribunal, or the use of the jurisprudence of other tribunals as precedent rather than in a persuasive capacity, it is unlikely that such an arrangement could be made without amendment of the respective statutes. Moreover, the Secretary-General is concerned that such active involvement, or perhaps other forms of cooperation contemplated by JIU, may be perceived as encroaching on the independence of judges.

8. In this respect, JIU observed in paragraph 6 of its report that "until now, the case law of the United Nations Administrative Tribunal and the ILO Administrative Tribunal has been surprisingly uniform and consistent", but made reference to "some discrepancies in case law that could be avoided with better cooperation between the Tribunals". Consideration of the issue would be assisted by the identification of these discrepancies.

III. Other comments

9. In its report on the administration of justice in the Secretariat (A/57/736), the Advisory Committee on Administrative and Budgetary Questions had noted that, should the Assembly accept the Committee's recommendation to amend the United Nations Administrative Tribunal statute to require that candidates for the Tribunal possess judicial experience in the field of administrative law or its equivalent in the candidate's national jurisdiction, "proposals could be made by the Secretary-General regarding compensation" (para. 16). As noted in paragraph 7 above, however, the amendment made by the Assembly in resolution 58/87 in effect confirmed the differences in the qualifications required of the United Nations Administrative Tribunal members and the ILO Administrative Tribunal judges under their respective statutes. The alignment of the compensation received by the ILO Administrative Tribunal judges and the compensation received by the United Nations Administrative Tribunal members would have implications, which the Secretariat will explain in a separate document. In addition, the removal of the cap on the amount of compensation that may be awarded to claimants (recommendation 2) may give rise to additional financial implications.